

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

BULLETIN 1258

JANUARY 21, 1959.

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BULLETIN 1258

JANUARY 21, 1959.

1. APPELLATE DECISIONS - KROGH'S RESTAURANT, INC. ET ALS. v.
SPARTA TOWNSHIP AND SPARTA ASSOCIATES, INC. (CASES #1 & #2).

Case No. 1 and Case No. 2)
KROGH'S RESTAURANT, INC., et als.)

Appellants,)

-vs-)

TOWNSHIP COMMITTEE OF THE TOWNSHIP)
OF SPARTA, and SPARTA ASSOCIATES,)
INC.,)

Respondents.)
-----)

CONCLUSIONS
AND ORDER

Dolan and Dolan, Esqs., by Francis E. Bright, Esq.,
Attorneys for the Appellants.
Frank A. Dolan, Esq., Attorney for Respondent Sparta
Associates, Inc.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"These appeals have been taken from the action of respondent Township Committee (hereinafter referred to as respondent Committee) on June 10, 1958, whereby it granted, by a vote of two-to-one, the transfer of a 1957-58 plenary retail consumption license from William T. Washer to Sparta Associates, Inc. and from premises on Sparta-Lafayette Road to premises at Sparta Theater Center, Sparta, and from the further action of respondent Committee on June 30, 1958, whereby it renewed the license for the current licensing period.

"The appellants herein are holders of plenary retail consumption licenses in the Township of Sparta.

"Various reasons relied upon by the appellants for reversal of the action of the respondent Committee may be summarized as follows:

- (a) The area in which the proposed premises are located is heavily frequented by minors;
- (b) The objections of two churches were not made known to two members of the respondent Committee;
- (c) The members of the respondent Committee did not investigate the principal stockholders of respondent corporate licensee;
- (d) No plans and specifications were filed with the application for transfer;
- (e) The plans filed by respondent licensee on June 10, 1958 indicated that the proposed establishment was to be used primarily as a package store;

- (f) The premises were incomplete as no satisfactory disposal system was shown thereon and there was no evidence that an adequate disposal system could be installed in the proposed premises;
- (g) There is a traffic hazard at the proposed location;
- (h) There is no need or necessity for a liquor outlet at the proposed location;
- (i) The respondent Committee has repeatedly determined in past that no plenary retail consumption licenses be permitted in the area in question;
- (j) Unconditional transfer was granted although the interior was not completed in accordance with the plans filed in the matter;
- (k) Plans were not signed by a registered architect or registered engineer.

"The respondent licensee moved to dismiss the petition of appeal because of appellants' failure within the time limited by law to join it as a party to the proceedings. It appears that on February 12, 1958 the application for transfer of the license was filed and was approved on June 10, 1958; that on July 7, 1958 copies of notice and petition of appeal were served upon the Township Clerk and upon the respondent licensee, respectively; that on July 10, 1958 the original copies of notice and petition of appeal were received at this Division; and that on July 24, 1958 an amended petition of appeal was received at this Division wherein the licensee was made a party respondent.

"Although it appears that the appeal taken herein may not have been filed in accordance with R. S. 33:1-26 and Rules 2 and 3 of State Regulation No. 15, it is not necessary to pass upon this motion at this time in view of the recommendation hereinafter set forth with reference to the merits of the case.

"The record discloses that the premises to which the transfer is sought are located in a shopping center near Route 15 and had formerly been used as a realtor's office; that there are other business establishments in the immediate area, one of which is a large supermarket; that pursuant to the request of the respondent Committee, the respondent licensee filed a plan showing the various structural changes to be made to the interior of the premises before the use thereof for the purposes intended.

"The allegation that the proposed licensed premises would create a moral hazard for minors who use the facilities of nearby business establishments is mere conjecture. If the premises are conducted in a law-abiding manner, minors or adults have nothing to fear. If, however, the licensed premises are not so conducted, the respondent licensee will subject its license to suspension or revocation thereof.

"The Township Clerk testified that although letters of objection from two churches were read at the June 10th meeting of the respondent Committee, they were not made part of the record until a hearing was held on June 26, 1958. Grant of the transfer, however, was made by the respondent Committee on June 10, 1958.

"Appellants further contend that the members of the respondent Committee neglected to determine the fitness of the owners of the capital stock of the respondent corporate licensee. Committeeman Clarence V. Gobel testified that his investigation disclosed that one of the major stockholders had a very important position in the business world and that the other major stockholder was the wife of said person. Furthermore, Committeeman Gobel stated that he knew the secretary of the respondent corporate licensee was a certified public accountant of this State and appeared to be acceptable to him. There appears to be no evidence or reason advanced by the appellants herein which, in any way, discloses that either of the major stockholders or the officers of the respondent corporate licensee are unfit or unqualified in any manner whatsoever to be associated with the liquor industry in this State.

"Another contention of the appellants was that the respondent-licensee neglected to file plans and specifications with the respondent Committee at the time the application for transfer was made. The premises to which the transfer was sought were already in being and, therefore, it was not necessary to file plans and specifications in this case. The rules and regulations of the Division of Alcoholic Beverage Control specifically provide that, if the building is sought to be used as a licensed premises and has not yet been constructed, it is necessary only in that instance to file plans and specifications of the proposed building with the application. Rule 1 of State Regulation No. 2 and Rule 4 of State Regulation No. 6. The question as to whether or not there is a need or necessity for a liquor outlet at a particular location is within the sound discretion of the issuing authority. Furthermore, the number of licensed premises to be permitted in any particular area is also a matter confided to the sound discretion of the issuing authority. See DeCapua v. Ocean, Bulletin 941, Item 1. The facts in the instant appeal are substantially similar to those in Duffy et al. v. Mt. Laurel and Sclaroff, Bulletin 969, Item 1, wherein the Director remarked 'So far as testimony by the residents of Mount Laurel Township are concerned, there appears to be a real difference of opinion as to whether or not the majority of the members of the Township Committee acted in accordance with the general welfare of the community. There is absolutely no evidence that any member was improperly motivated. The most that has been shown is that there is an honest difference of opinion between the members of the Township Committee.' Furthermore, the Director in said case stated 'There is room for latitude of opinion in cases of this kind. My function on appeals of the type now before me, however, is to determine whether reasonable cause exists for the issuing authority's opinion and, if so, to affirm. Curry v. Margate City, Bulletin 460, Item 9; Mulcahy v. Maplewood, Bulletin 658, Item 4.'

"The fact that the transfer of the license may be contrary to the economic interests of appellants is not a sufficient reason for setting aside the transfer. Knast et al. v. Camden et al., Bulletin 810, Item 2.

"I am satisfied that in all respects proper consideration was given by the members of the respondent Committee before action was taken on the application for transfer. Insofar as reasons (e), (f), (g), (i) and (k) in the petition of appeal are concerned, the record is barren of adequate proof to warrant serious consideration.

"I recommend, after careful examination of the evidence adduced in the instant case and also of the memoranda of the attorneys filed herein, that the action of the respondent Committee in approving the application for transfer and also in renewing the license in question at the proposed site be affirmed. However, I further recommend that the license be withheld by the respondent Committee until such time as alterations are made to the proposed premises in accordance with the plans and specifications submitted to respondent Committee."

No exceptions were taken to the Hearer's Report within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the facts and circumstances herein, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 18th day of November, 1958,

ORDERED that the action of respondent Township Committee of the Township of Sparta be and the same is hereby affirmed and the appeals herein be and the same are hereby dismissed.

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - MART-HALL CORPORATION v. POINT PLEASANT BEACH.

MART-HALL CORPORATION, trading)
as SEA BREEZE,)

Appellant,)

-vs-

ON APPEAL
CONCLUSIONS AND ORDER

MAYOR AND COUNCIL OF THE BOROUGH)
OF POINT PLEASANT BEACH,)

Respondent.)

William C. Nowels, Esq. and Harold Feinberg, Esq., Attorneys
for Appellant.

Donald H. Ward, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the imposition of the following conditions and regulations which affect particularly a section of appellant's licensed premises referred to in respondent's resolution as the 'Boardwalk Stores':

- '(a) That the area so designated is to be used primarily as a sandwich shop and restaurant, with a restaurant counter and tables located therein.
- '(b) That the said area is to harbor a service bar with no stools or other seating arrangements around said service bar which is to be used merely as a convenient place from which to serve patrons of the sandwich shop or restaurant with alcoholic beverages.'

"The evidence herein discloses that, for many years prior to June 1957, appellant's licensed premises consisted of an area about 100 feet in depth by 100 feet in width, located about 80 feet east of the Boardwalk, wherein appellant conducted a restaurant and barroom. During that period appellant also operated a gift shop, a candy store and a game room, all of which were located in the same building between the then licensed premises and the boardwalk. The game room (31 feet x 40 feet) is the same section of the premises which is referred to above as the 'Boardwalk Stores.'

"At the hearing herein Fred Martell (president of appellant corporation) testified that early in June 1957 he wrote a letter to respondent requesting an extension of appellant's license to include the game room and says that in said letter he explained that the corporation desired to operate a sandwich shop and to serve cocktails and alcoholic drinks therein. He admits that at or about the same time he exhibited to some of the members of Borough Council a photograph of the front of a sandwich shop facing on a boardwalk in another municipality and told them that the boardwalk front of appellant's premises would be very similar. The request was considered at a regular meeting of the Borough Council on June 11, 1957, at which meeting all of the then members, except Councilman Gillette, were present. There was some discussion among the Councilmen. The minutes of said meeting disclose that the following action on said request was then taken:

'Motion by Purdy, seconded by Hess and carried by unanimous vote on roll call, request of Mart-Hall Corporation for an extension to the area to be covered by its ABC licenses be granted, subject to approval when license comes up for renewal.'

"It should be noted that the above action of respondent was improper because there was no formal transfer of the license to include the game room as an addition to appellant's licensed premises. Re Johnson, Bulletin 170, Item 14. Fred Martell testified that, shortly after he was 'told to go ahead', he presented plans for changes in the game room to the building inspector, obtained a permit from the building inspector, and proceeded to change the game room in accordance with the plans. At or about this time appellant filed an application for renewal of its license for the 1957-58 licensing year and therein described the premises to be licensed as follows:

'Entire first floor plus Dining Deck, Stock rooms & kitchen with office and dressing rooms on 2nd floor.
Excluded is Gift Shop & Candy Store.'

"According to the records of this Division, this renewal was granted by respondent on June 25, 1957, effective July 1, 1957, and no special conditions were then imposed on the license. From the evidence it appears that the changes in the game room were completed before July 1, 1957, and that, shortly prior to that date, Fred Martell attended a conference of all the then members of the Council (including Councilman Gillette), at which there was a discussion of appellant's right to operate a bar with stools in the game room but it does not appear that any formal action was taken by respondent at that time. In any event, appellant started to operate in the game room on July 1, 1957, with a bar and twelve stools in that portion of the premises and a sign facing the boardwalk and containing the words 'Cocktail Lounge' and 'Delicious sandwiches and pizza pie.' The premises were so conducted without question until June 1958.

"On July 23, 1957, respondent adopted a supplement to the alcoholic beverage ordinance. The supplement reads as follows:

'Section 311. No plenary retail consumption license, excepting renewals of licenses presently outstanding, shall be issued for or transferred to any portion of that area of the Borough of Point Pleasant Beach lying east of Ocean Avenue, the said Ocean Avenue extending from the Manasquan River southerly to the Borough of Bay Head.'

"In June 1958 appellant applied for renewal of its license for the 1958-59 licensing year. When one of appellant's attorneys noted the improper procedure in 1957 as to the extension of the licensed premises, he arranged to amend the pending application for renewal by setting forth therein only the original premises and filed a proper application for a transfer of the renewed license to include the game room. Appellant obtained a special permit from the Director to enable it to operate the entire premises until the applications were acted upon by respondent. On July 8, 1958, by unanimous vote, respondent granted renewal and transfer subject to the conditions and regulations which are the subject of this appeal.

"On behalf of respondent, Councilman Gillette testified that he has been a member of Council for seven years and that he was ill when the meeting was held on June 11, 1957. He further testified that the reason why the conditions in question were imposed in 1958 was to 'include in writing' the same conditions which were imposed orally in 1957 by the members of the Borough Council. However, Fred Martell denied that any oral conditions were ever imposed. Moreover, former Councilman Purdy who was present at the meeting on June 11, 1957, testified, on behalf of appellant, that Fred Martell 'showed us the picture, told us he wanted to build a sandwich shop to sell pizza pies and sandwiches, and so forth, and to have this cocktail bar.' He further testified that, at this meeting and at the conference held a few weeks later, the members of Council discussed the question as to whether there should be a cocktail bar or only a service bar but that no restrictions or conditions of any kind were imposed at this meeting or at this conference or at the time the license was renewed for the 1957-58 licensing year. It should also be noted that three of the six members of Council who voted in 1958 to impose the conditions in question were not members of Borough Council in 1957. Considering all the testimony, I conclude that the evidence does not sustain respondent's contention that any oral conditions were imposed on the license in 1957.

"There remains the question as to whether, aside from prior oral conditions, the written conditions imposed herein are unreasonable. Councilman Gillette indicated that there is local sentiment against the establishment of additional licenses on the Boardwalk. The supplement to the alcoholic beverage ordinance adopted on July 23, 1957, establishes a policy which apparently did not exist before that date because a number of licenses had previously been issued for premises on the boardwalk. Appellant was operating its cocktail lounge when the supplement to the ordinance was adopted and, hence, its license should not be affected thereby. The supplement would apply to any future applications.

"Appellant should not be penalized in any way for the erroneous action of respondent in 1957 whereby it permitted the extension of the licensed premises without a proper transfer. That error has now been corrected by respondent. There is no evidence in this case that there were any complaints as to the manner in which appellant operated its cocktail lounge during the 1957-58 licensing year. Under the circumstances, I conclude that the conditions and regulations imposed in 1958 are unreasonable and should be set aside. Cf. Gilmore Realty Corporation v. Belmar, Bulletin 1202, Item 1. It is recommended that an order be entered deleting the above conditions and regulations from appellant's license."

No exceptions to the Hearer's Report were filed within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered all the facts and circumstances of this case, I concur in and adopt the conclusions set forth in the Hearer's Report as my conclusions herein.

Accordingly, it is, on this 4th day of December, 1958,

ORDERED that the action of respondent whereby it imposed the aforesaid conditions and regulations upon appellant's license be and the same is hereby reversed, and I hereby direct that the aforesaid conditions and regulations be deleted from appellant's license.

WILLIAM HOWE DAVIS
Director.

3. APPELLATE DECISIONS - CHET & JOHN'S, INC. v. LITTLE FALLS.

CHET & JOHN'S, INC., trading as)
CHET AND JOHN'S SINGAC LODGE,)
Appellant,)
-vs-)
TOWNSHIP COMMITTEE OF THE)
TOWNSHIP OF LITTLE FALLS,)
Respondent.)

ON APPEAL
O R D E R

Oscar F. Laurie, Esq., Attorney for Appellant.
Mitchel F. Donato, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from respondent's denial, on August 18, 1958, of appellant's application for renewal of its plenary retail consumption license for premises at 600 Main Street, Little Falls.

Renewal of the license was denied for the stated reason that the licensed premises had been conducted in an improper manner. The petition of appeal alleges, among other reasons for reversal, that the action of respondent was unreasonable.

Prior to the hearing herein, respondent, at a meeting held on November 24, 1958, adopted by a two-to-one vote a resolution requesting me to remand the case to the Township Committee. The attorney for respondent has advised me in writing that the Township Committee desires a remand to consider further the advisability of renewing the license so that it may

consider an application to transfer the license to another person. No reason appearing to the contrary,

It is, on this 5th day of December, 1958,

ORDERED that the matter be and the same is hereby remanded to respondent for reconsideration.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - PERMITTING FEMALE IMPERSONATORS ON PREMISES - PRIOR RECORD - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE GRANTED TO TRANSFEREE TO APPLY FOR LIFTING AT EXPIRATION OF 120 DAYS.

In the Matter of Disciplinary Proceedings against)

HARRY TORETCH & AGNES TORETCH)
t/a TORETCH'S LODGE BAR)
1340 White Horse Pike)
Galloway Township)
PO R.D. Absecon, N. J.,)

CONCLUSIONS
AND ORDER

-----)
Holders of Plenary Retail Consumption License C-25, issued by the Township Committee of the Township of Galloway.)

Edwin H. Helfant, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charge:

"On September 13, 14, 19, 20, 27 and 28, 1958, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you employed on your licensed premises and allowed, permitted and suffered thereon persons, females impersonating males, who appeared to be homosexuals; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and morals; in violation of Rule 5 of State Regulation No. 20."

The basis for the charge, as disclosed by the file herein, is that defendants permitted female homosexuals or Lesbians to congregate on the licensed premises. This is misconduct similar to that for which the license of defendants was suspended effective December 13, 1956 for one hundred ten days. Re Toretch, Bulletin 1150, Item 1. It is to be noted, however, that in the previous instance male and female homosexuals were involved; in addition lewd and immoral conduct and obscene language was also involved, such as extremely repulsive anecdotes and indecent conduct and exposure. The licensees were then warned to avoid any further violations of such nature.

In the present instance ABC agents were at the defendants' licensed premises on September 13-14 from about 11:30 p.m.

to 2:00 a.m.; on September 19-20 from about 10:45 p.m. to 1:00 a.m., and on September 27-28 from about 11:30 p.m. to 2:45 a.m. On the first occasion two barmaids were on duty. From their attire, hair style and actions they appeared to be Lesbians. Most of the females on the premises during this visit of the agents likewise appeared to be Lesbians, some of whom paired in couples, danced and exchanged kisses.

On the second occasion one of the aforementioned Lesbian barmaids was on duty. During this visit the agents observed only one other Lesbian. On the last visit the other Lesbian barmaid was on duty and five other apparent Lesbians were present. Two of these persons danced and exchanged kisses. The barmaid told the agents that few, if any, male homosexuals came to the place, in that it was strictly a hangout for "gay" females. Shortly after this conversation the agents revealed their identity to Harry Toretch, one of the licensees. When they called his attention to the presence of Lesbians he stated that they did nothing but sit at the bar.

It thus appears there was no indecent conduct or obscene language engaged in on any of the three above mentioned visits by the agents. This is a circumstance which may merit some consideration in that possibly it represents an effort of the licensees to eliminate any offensive conduct by patrons of this type. However, permitting such persons merely to congregate, absent any repulsive conduct, is a violation for which, if otherwise unaggravated, the minimum suspension would be sixty days. Re Rutgers Cocktail Bar, A Corp., Bulletin 1133, Item 2.

The licensees represent that they intend to sell the premises and request some leniency also on that account. They are well advised to sever their connection with the liquor industry, since it appears that, in addition to the one hundred ten day suspension, their license was suspended for twenty-five days, effective March 20, 1952, for sale to a minor and for permitting foul, filthy and obscene language and for fifteen days, effective November 2, 1953, for sale to a minor. With such a record, which includes a second offense within less than two years for permitting homosexuals to congregate on licensed premises, a penalty of revocation of the license might well follow. However, I shall give the licensees the benefit of the doubt and assume that they were merely incapable of maintaining a proper standard of conduct of the licensed business rather than that they were deliberate violators. Hence, I shall suspend the license for the balance of its term. However, I shall entertain a petition to lift the suspension herein upon presentation of satisfactory evidence that the defendants' license has been transferred to another and suitable person, but in no event will the suspension be lifted until the license has been under suspension for a period of one hundred twenty days from the effective date hereof.

Accordingly, it is, on this 2nd day of December, 1958,

ORDERED that Plenary Retail Consumption License C-25, issued by the Township Committee of the Township of Galloway to Harry Toretch and Agnes Toretch, t/a Toretch's Lodge Bar, for premises 1340 White Horse Pike, Galloway Township, be and the same is hereby suspended for the balance of its term, effective at 7:00 a.m. Wednesday, December 10, 1958; and it is further

ORDERED that, in the event the license is transferred to another and suitable person, leave will be given to make application to me for the lifting of said suspension as aforesaid.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - VIOLATION OF STATE REGULATION NO. 38 - CONDUCTING BUSINESS DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - ACCEPTING ORDERS AT OTHER THAN LICENSED PREMISES - FALSE STATEMENT IN APPLICATION - PRIOR RECORD - LICENSE SUSPENDED FOR 55 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

WILLIAM P. MELVIN)
t/a BILL'S ELK BAR)
370 Grand Street)
Jersey City 2, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-89, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

Alexander A. Abramson, Esq., Attorney 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 (1) he sold, served and delivered, during prohibited hours, alcoholic beverages in their original containers for off-premises consumption; in violation of Rule 1 of State Regulation No. 38; (2) he conducted his licensed business during prohibited hours; in violation of a local ordinance; (3) he accepted orders for and sold alcoholic beverages at a place other than his licensed premises; in violation of R.S. 33:1-22; and (4) he gave a false statement in his application upon which he obtained his current license; in violation of R.S. 33:1-25.

The file herein discloses that ABC agents arrived in the vicinity of defendant's licensed premises at about 9:15 a.m., Sunday, August 10, 1958. One of them sought information from several males consuming beer in a parked car as to where he could purchase a pint of wine. Being directed to the side door of defendant's tavern he tried to enter but was rebuffed by an employee, later identified as Ray Stark. Shortly thereafter the agent observed an unidentified patron at the side door of the tavern and joined him. The patron called to Stark who asked what they wanted. The agent requested a pint of wine and the patron asked for four cans of beer. Stark served their orders and accepted payment outside of the licensed premises. The agent thereafter contacted the other agents and all of them entered the licensed premises and informed Stark of the violations. Stark admitted the sale of wine to the agent but refused to give a signed sworn statement. Subsequent investigation disclosed that the defendant in his current license application stated, contrary to the fact, that his license had not been previously suspended. Rule 1 of State Regulation No. 38 prohibits the sale of alcoholic beverages on Sunday. The local ordinance prohibits the licensed business to be conducted on Sunday between the hours of 2:00 a.m. and 1:00 p.m.

Defendant's attorney submitted a letter in which he states, by way of mitigation of the penalty with respect to Charge (4), that an accountant prepared the licensee's application and inadvertently inserted a negative rather than an

affirmative answer to the pertinent question. He states further that the licensee herein has an interest in a license in another city, and that he (the attorney) prepared the application for that license and inserted answers to all questions concerning the violations of the licensee herein. He contends that inasmuch as his client answered all the questions in one application disclosing full information concerning his status, there would have been no reason for him to disclose same in the application signed by him for the license in question.

A licensee's responsibility is to see to it that every question in a license application is answered correctly and fully before affixing his signature. A false statement made by him under oath respecting a material fact cannot be condoned.

Defendant has a prior adjudicated record. Effective December 3, 1956 his license was suspended for ten days by the Director for a violation similar to that set forth in Charge (1). Re Melvin, Bulletin 1147, Item 5. I shall suspend the defendant's license for ten days on Charge (3), Re Desimone, Bulletin 1184, Item 5, and ten days on Charge (4), Re Davis, Bulletin 1115, Item 9. The usual penalty imposed for the violations set forth in Charges (1) and (2) is twenty days, Re Daly and Kohm, Bulletin 1222, Item 5. However, because of the violation which occurred within a five-year period, I shall suspend defendant's license for thirty-five days on Charges (1) and (2), making a total suspension of fifty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifty days.

Accordingly, it is, on this 17th day of November, 1958,

ORDERED that Plenary Retail Consumption License C-89, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to William P. Melvin, t/a Bill's Elk Bar, for premises 370 Grand Street, Jersey City, be and the same is hereby suspended for fifty (50) days, commencing at 2:00 a.m. Monday, December 1, 1958, and terminating at 2:00 a.m. Tuesday, January 20, 1959.

WILLIAM HOWE DAVIS
Director.

RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM JULY 1, 1958 THROUGH DECEMBER 31, 1958

	1st Quarter			2d Quarter			Total
	July	Aug.	Sept.	Oct.	Nov.	Dec.	
ARRESTS:							
Total number of persons arrested	76			64			140
Licensees and employees	29			31			60
Bootleggers	47			33			80
SEIZURES:							
Motor vehicles - cars	5			7			12
- trucks	-			1			1
Still - over 50 gallons	4			7			11
- 50 gallons or under	2			1			3
Alcohol - gallons	-			1,950.00			1,950.00
Mash - gallons	2,025.00			1,150.00			3,175.00
Distilled alcoholic beverages - gallons	124.55			267.25			391.80
Wine - gallons	35.99			14.99			50.98
Brewed malt alcoholic beverages - gallons	72.11			53.20			125.31
RETAIL LICENSEES:							
Premises inspected	1,953			2,121			4,074
Premises where alcoholic beverages were gauged	1,111			1,714			2,825
Bottles gauged	18,624			28,870			47,494
Premises where violations were found	225			218			443
Type of violations found	339			313			652
Unqualified employees	142			111			253
Application copy not available	61			46			107
Reg. #38 sign not posted	40			57			97
Prohibited signs	32			23			55
Other mercantile business	22			12			34
Disposal permit necessary	11			4			15
Improper beer taps	2			5			7
Other violations	29			55			84
STATE LICENSEES:							
Premises inspected	65			78			143
License applications investigated	27			15			42
COMPLAINTS:							
Complaints assigned for investigation	1,375			1,103			2,478
Investigations completed	1,292			1,092			2,384
Investigations pending	(170)			131			131
LABORATORY:							
Analyses made	504			351			855
Refills from licensed premises - bottles	5			14			19
Bottles from unlicensed premises	122			114			236
IDENTIFICATION:							
Criminal fingerprint identifications made	51			32			83
Persons fingerprinted for non-criminal purposes	753			465			1,218
Identification contact made with other enforcement agencies	576			321			897
Motor vehicle identifications via N. J. State Police teletype	5			9			14
DISCIPLINARY PROCEEDINGS:							
Cases transmitted to municipalities	40			56			96
Violations involved	42			74			116
Sale during prohibited hours	29			37			66
Sale to minors	5			13			18
Sale to non-members by club-licensee	4			4			8
Failure to close premises during prohibited hours	-			5			5
Employee without identification card (local reg.)	1			2			3
Sale to intoxicated persons	1			2			3
Service to women at a bar (local reg.)	1			1			2
Permitting brawl on premises	1			1			2
Permitting hostesses on premises	-			2			2
Sale outside scope of license	-			1			1
Possessing chilled beer (DL licensee)	-			1			1
Failure to have copy of license application on premises	-			1			1
Employing unqualified persons	-			1			1
Employing female bartender (local reg.)	-			1			1
Permitting foul language on premises	-			1			1
Permitting lottery activity on premises	-			1			1
Cases instituted at Division							
Cases instituted at Division	69			70*			139
Violations involved	105			119			224
Sale to minors	26			14			40
Sale during prohibited hours	15			18			33
Permitting immoral activity on premises	8			6			14
Sale below minimum resale price	6			4			10
Conducting business as a nuisance	6			4			10
Possessing liquor not truly labeled	4			5			9
Permitting foul language on premises	4			4			8
Sale to intoxicated persons	4			4			8
Permitting lottery activity on premises	3			5			8
Permitting bookmaking on premises	3			4			7
Hindering investigation	3			4			7
Sale outside scope of license	3			3			6
Failure to close premises during prohibited hours	1			5			6
Solr-permittee engaging in conduct prohibited to employer	-			6			6

*Includes one cancellation proceeding against blanket employment permit--females who acted as hostesses.

DISCIPLINARY PROCEEDINGS (Continued)	1st Quarter			2d Quarter			Total
	July,	Aug.,	Sept.	Oct.,	Nov.,	Dec.	
Cases instituted at Division (Continued)							
Fraud and front			2		3		5
Failure to have copy of license application on premises			2		3		5
Furnishing unlawful inducements to retailer			-		5		5
Possessing indecent matter			3		1		4
Permitting hostesses on premises			2		2		4
Delivery without bona fide invoice			2		1		3
Employing unqualified person			1		2		3
Service to women at a bar (local reg.)			1		1		2
Failure to file notice of default			-		2		2
Sale on credit to retailer in default			-		2		2
Employee without identification card (local reg.)			-		2		2
Unauthorized transportation			1		-		1
Sale during license suspension			1		-		1
Possessing contraceptives on premises			1		-		1
Retailer employing solicitor			1		-		1
Peddling from vehicle			1		-		1
Permitting prostitutes on premises			1		-		1
Permitting consumption on distribution licensed premises			-		1		1
Permitting open container on distribution licensed premises			-		1		1
Soliciting house to house			-		1		1
Substituting drink other than ordered			-		1		1
Permitting gambling on premises			-		1		1
Failure to file notice of change in permit application			-		1		1
Accepting unlawful inducements from wholesaler			+		1		1
Aiding and abetting unauthorized sale			-		1		1
Permitting brawl on premises			-		1		1
Cases brought by municipalities on own initiative and reported to Division	48			51			99
Violations involved	59			59			118
Sale to minors	25			25			50
Permitting brawl on premises	12			14			26
Sale during prohibited hours	7			7			14
Conducting business as a nuisance	5			2			7
Permitting immoral activity on premises	2			-			2
Purchase from improper source	2			-			2
Sale to intoxicated persons	1			1			2
Hindering investigation	-			2			2
Permitting gambling on premises	-			2			2
Permitting prostitutes on premises	1			-			1
Permitting hostesses on premises	1			-			1
Permitting bookmaking on premises	1			-			1
Service to women at a bar (local reg.)	1			-			1
Possessing liquor not truly labeled	1			-			1
Failure to close premises during prohibited hours	-			1			1
Failure to afford view into premises during prohibited hours	-			1			1
Failure to display license certificate	-			1			1
Permitting foul language on premises	-			1			1
Employee working while intoxicated	-			1			1
Permitting minor to loiter on premises (local reg.)	-			1			1
HEARINGS HELD AT DIVISION:							
Total number of hearings held	114			131			245
Appeals	16			16			32
Disciplinary proceedings	68			79			147
Eligibility	14			20			34
Seizures	6			10			16
Tax revocations	7			3			10
Applications for license	3			3			6
STATE LICENSES AND PERMITS ISSUED:							
Total number issued	4,468			4,297			8,765
Licenses	599			10			609
Employment permits	770			398			1,169
Solicitors "	162			111			273
Disposal "	277			211			488
Social affair "	1,236			1,111			2,347
Wine "	--			1,020			1,020
Miscellaneous "	617			503			1,120
Transit insignia	726			839			1,565
Transit certificates	81			84			165

Dated: January 15, 1959

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
Labeled - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

LEWIS ROSSETTI)
t/a SCOLA'S BAR & GRILLE)
13 So. Egg Harbor Road)
Hammonton, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-9, issued by the)
Town Council of the Town of)
Hammonton.)

-----)
Lewis Rossetti, Defendant-licensee, Pro se.
William F. Wood, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

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

The file herein discloses that on September 17, 1958, an ABC agent, making a routine inspection of defendant's open bottles, seized a number of such bottles which appeared to be off in proof and submitted them to the Division's chemist for analysis. The chemist's report discloses that the contents of one of these bottles (labeled "Geo. A. Dickel's Cascade Kentucky Straight Bourbon Whisky 86 Proof") was 23 proof short and, hence, not genuine as labeled.

The licensee denied that he tampered with any of the seized liquor or had any knowledge that they were tampered with by anyone else.

Defendant has no prior adjudicated record. I shall suspend defendant's license for ten days. Re Jorgensen, Bulletin 1246, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 18th day of November, 1958,

ORDERED that Plenary Retail Consumption License C-9, issued by the Town Council of the Town of Hammonton to Lewis Rossetti, t/a Scola's Bar & Grille, for premises 13 So. Egg Harbor Rd., Hammonton, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. Monday, December 1, 1958 and terminating at 2:00 a.m. Saturday, December 6, 1958.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 HENRY MISIUK & CHARLES PETKOS
 Executors of the Estate of George Petkos
 t/a Petkos Tavern
 2 Holsman Street
 Paterson, N. J.,

CONCLUSIONS AND ORDER

 Holders of Plenary Retail Consumption License C-246, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

Henry Misiuk (one of the Executors of the Estate of George Petkos), for Defendant-licensees.
 Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that on Sunday, October 26, 1958, they sold during prohibited hours alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

On Sunday, October 26, 1958, ABC agents observed a man arrive at the licensed premises in an automobile, enter such premises and emerge therefrom in a few minutes carrying a large paper bag. As this man was about to enter his car, the agents identified themselves and ascertained that the bag contained twelve cans of beer. As the agents and this man were about to enter the premises, another man came out therefrom carrying six cans of beer. The agents and the two men then entered the premises and identified themselves to the bartender, whereupon he acknowledged that he had sold the beer to the above men.

Defendants have no prior adjudicated record. I shall suspend their license for a period of fifteen days (Re Tevis, Bulletin 1246, Item 4). Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 1st day of December, 1958,

ORDERED that Plenary Retail Consumption License C-246, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Henry Misiuk & Charles Petkos, Executors of the Estate of George Petkos, t/a Petkos Tavern, for premises 2 Holsman Street, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. Monday, December 8, 1958, and terminating at 3:00 a.m. Thursday, December 18, 1958.

WILLIAM HOWE DAVIS
 Director.

9. STATUTORY AUTOMATIC SUSPENSION - SALE TO MINOR - LICENSE PREVIOUSLY SUSPENDED BY LOCAL ISSUING AUTHORITY - APPLICATION TO LIFT GRANTED.

Auto. Susp. #160)
 In the Matter of a Petition to)
 Lift the Automatic Suspension of)
 Plenary Retail Distribution License)
 D-2, issued by the Borough Council) ON PETITION
 of the Borough of Bogota to) O R D E R
)
 ERNIE'S DELICATESSEN & LIQUORS, INC.)
 127-A Queen Anne Road)
 Bogota, N. J.)

-----)
 John F. McCann, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

A verified petition filed herein discloses that on November 21, 1958, Robert Sturm (president of Ernie's Delicatessen & Liquor, Inc.) was fined \$200.00 in the Bergen County Court after he was found guilty of selling an alcoholic beverage to a minor, in violation of R. S. 33:1-77. Said conviction resulted in the automatic suspension of the license held by the corporation. R. S. 33:1-31.1. The petition requests the lifting of said suspension. The license has not been picked up because of the pendency of this proceeding.

The local issuing authority suspended the license held by the corporation for twenty-five days, less five for the plea, leaving a net suspension of twenty days, effective April 3, 1958, after the corporation had pleaded non vult in disciplinary proceedings to a charge of selling to the same minor. Under all the circumstances of the case, it appears that the suspension imposed by the local issuing authority was adequate. The relief requested herein will be granted.

Accordingly, it is, on this 25th day of November, 1958,

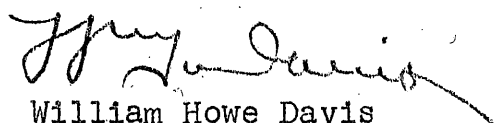
ORDERED that the automatic suspension of License D-2, held by Ernie's Delicatessen & Liquors, Inc., for premises 127-A Queen Anne Road, Bogota, be and the same is hereby lifted, and said license is restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS
 Director.

10. STATE LICENSES - NEW APPLICATIONS FILED.

City Beverage Co., Inc.
 415-417 West Grand Street, Elizabeth, N. J.
 Application filed January 15, 1959 for person-to-person transfer of State Beverage Distributor's License SBD-106 from City Beverage Distributors, Inc.

Park Beverages, A Corporation, t/a Park Beverages
 Licensed premises and warehouse 1007 Bergenline Ave., Union City, N.J.
 Salesroom 15-17 Hackensack Ave., Ridgefield Park, N. J.
 Application filed January 16, 1959 for place-to-place transfer of State Beverage Distributor's License SBD-173 from 165 Central Avenue, Rochelle Park, N. J.


 William Howe Davis
 Director.