

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 2005

October 28, 1971

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STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark, N.J. 07102

October 28, 1971

BULLETIN 2005

1. APPELLATE DECISIONS - ROUTE 9 REALTY CORP. v. LAKEWOOD - ROB-LYN  
CORP. v. LAKEWOOD - ORDER DISMISSING APPEALS.

#3525- )  
Route 9 Realty Corp., t/a )  
Holiday Inn, )  
Appellant, )  
v. )

Township Committee of the )  
Township of Lakewood, )  
Respondent. )  
----- )

On Appeal

CONCLUSIONS  
and  
ORDER

#3526- )  
Rob-Lyn Corporation, )  
Appellant, )  
v. )

Township Committee of the )  
Township of Lakewood, )  
Respondent. )  
----- )

Daniel Amster, Esq., Attorney for Appellants  
Norman D. Smith, Esq., Attorney for Respondent

BY THE DIRECTOR:

Appellant Route 9 Realty Corp. appeals from the action of respondent whereby on July 9, 1970 it denied appellant's application for renewal of its plenary retail consumption license for the 1970-71 license period for premises at 10th Street and Madison Avenue, Lakewood.

Appellant Rob-Lyn Corporation appeals from the action of respondent whereby on June 25, 1970 it denied appellant's application for a person-to-person transfer to it of a plenary retail consumption license issued to Route 9 Realty Corp. for the aforesaid premises.

It appears that Route 9 Realty Corp. also filed an application for renewal of its plenary retail consumption license for the 1971-72 license period for the same premises and, upon denial thereof by respondent, filed an appeal with this Division which is presently pending. However, Rob-Lyn Corporation did not file an application for transfer of the said license for the current license period and, therefore, its appeal has now become moot.

It now appears that a stipulation was entered into by the attorneys for the respective parties and filed with this Division on August 27, 1971, wherein it is set forth that respondent is "satisfied that all objections to the renewal of said license have been removed" and has agreed to grant to Route 9 Realty Corp. a renewal of its license for the 1970-71 license period nunc pro tunc and to grant the application of Route 9 Realty Corp. for renewal of its license for the 1971-72 license period; and it further appears that the attorneys have consented to a dismissal of the appeals filed herein.

Accordingly, it is, on this 27th day of August 1971,

ORDERED that the appeals herein be and the same are hereby dismissed.

Richard C. McDonough  
Director

2. APPELLATE DECISIONS - ROUTE 9 REALTY CORP. v. LAKEWOOD - ORDER  
DISMISSING APPEAL.

#3597	)	
Route 9 Realty Corp., t/a	)	
Holiday Inn,	)	
Appellant,	)	On Appeal
v.	)	
Township Committee of the	)	O R D E R
Township of Lakewood,	)	
Respondent.	)	

-----  
Daniel Amster, Esq., Attorney for Appellant  
Norman D. Smith, Esq., Attorney for Respondent

BY THE DIRECTOR:

Appellant appeals from the action of respondent whereby on July 8, 1971 it denied appellant's application for renewal of its plenary retail consumption license for the 1971-72 license period for premises at 10th Street and Madison Avenue, Lakewood.

It appears that respondent had heretofore denied appellant's application for renewal of its plenary retail consumption license for the 1970-71 license period for the same premises. That appeal is presently pending; Hearer's report was submitted but no final determination was made by the Director.

It now appears that a stipulation was entered into by the attorneys for the respective parties and filed with this Division on August 27, 1971, wherein it is set forth that respondent is "satisfied that all objections to the renewal of said license have been removed" and has agreed to grant said license for the 1970-71 license period nuncpro tunc and to grant appellant's application for renewal of its license for the 1971-72 license period; and it further appears that attorneys have consented to dismissal of the appeal filed herein.

Accordingly, it is, on this 27th day of August 1971,

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

Richard C. McDonough,  
Director.

3. APPELLATE DECISIONS - CAMP BAR&LIQUORS, INC. v. NEWARK.

Camp Bar & Liquors, Inc.,	)	
t/a Jake's Tavern,	)	
Appellant,	)	On Appeal
v.	)	CONCLUSIONS
Municipal Board of Alcoholic	)	and
Beverage Control of the City	)	ORDER
of Newark,	)	
Respondent.	)	
- - - - -)		
Mayer and Mayer, Esqs., by Abraham I. Mayer, Esq., Attorneys for		Appellant
William H. Walls, Esq., by Althea A. Lester, Esq., Attorney for		Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent Municipal Board of Alcoholic Beverage Control of the City of Newark (hereinafter Board) by which the license of appellant was suspended for thirty days, for premises 208 Sherman Avenue, Newark, effective June 7, 1971, after finding it guilty in disciplinary proceedings of a charge alleging that appellant permitted the sale of alcoholic beverages, in its original container for consumption off the licensed premises and allowed removal of such alcoholic beverages, in violation of Rule 1 of State Regulation No. 38.

The petition of appeal contends that the action of the Board was erroneous in that it was contrary to the weight of the evidence, and there was insufficient legal evidence upon which to base the charge. The Board did not file an answer, as required by Rule 4 of State Regulation No. 15.

An order was entered by the Director on May 25, 1971 upon the filing of this appeal staying the Board's order of suspension pending the determination of the appeal. R.S. 33:1-31.

The attorneys for the respective parties agreed to submit the appeal on the transcript of testimony taken in proceedings before the Board, pursuant to Rule 8 of State Regulation No. 15.

The Board relied upon the testimony of two local police detectives in substantiation of the charge.

Detective James DuBose testified that, while accompanied by Detective Harris on Sunday, October 4, 1970 at about 1:00 p.m. he drove their car nearby appellant's tavern, having placed the doorway to the tavern under surveillance about 12:30 p.m. As a patron departed the tavern and walked past the detectives' car, he was asked "Do you know whether or not we could get a bottle at

the tavern?" The patron, identified as Joseph Jones volunteered "Give me five dollars and you park around the corner." The detectives drove their vehicle around the corner and the patron re-entered the tavern.

Jones stayed in the tavern for five or ten minutes and returned with a bottle of Seagrams 7 Whiskey, the seal of which was broken. Upon its receipt, the detectives identified themselves, returned with Jones to the tavern, where they cited the bartender with the sale.

Detective Norman Harris testified in corroboration of his associate. The Board's witness, Joseph Jones, could not be located and hence, did not testify.

Appellant offered the testimony of the bartender, Frenchy Robinson, who admitted selling Jones a pint bottle of whiskey, but that bottle and a like one before it, was sold along with "set-ups" for consumption at one of the tables; hence the seal was broken. No bottle was sold for off-premises consumption, and had he seen Jones attempt to leave with a bottle he would have been stopped. He testified that Detective DuBose, after advising him of the violation, obtained the \$5 bill from the register. No charges were preferred against him personally.

Appellant produced no other witnesses.

It was stipulated that the aforementioned bottle consisted of an alcoholic beverage. The major point of inquiry is whether, in fact, the appellant through its agent sold the offending beverage for off-premises consumption.

While there is no set formula for determining the quantum of evidence required, each case being governed by its own circumstances, the verdict must be supported by substantial evidence. Hornauer v. Div. of Alcoholic Beverage Control, 40 N.J. Super. 501 (App. Div. 1956). In determining the factual complex herein, the guiding rule is that the finding must be based on competent legal evidence, and must be grounded on a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, sec. 1042.

The alcoholic beverage was purchased by Jones and he was not produced as a witness for reasons previously given. The \$5 bill given for the purchase by the detective was also not produced, the officer admitting that he spent the money in the interim. Hence there was no testimony tracing the purchase of the liquor to its destination in the hands of the detective. "Such failure of a party to testify may invite the indulgence against it of every inference warranted by the evidence presented by its adversary." Hackensack Motel Corporation v. Little Ferry, Bulletin 1648, Item 1.

The witness for appellant testified that no sale was made for off-premises consumption, which statement was unrefuted. To the contrary, Jones was in the tavern five to ten minutes, long enough to make a purchase for on-premises consumption, and to stealthily remove the bottle for resale to the officers. The officers apparently never left their car until the sale was made.

The witness to the purchase was not produced, thus there was not sufficient evidence in the case to support the finding of guilt of the appellant. The detectives were not present when the purchase occurred and to that degree their testimony was merely hearsay. In order to find guilt in disciplinary proceedings it must be based upon and supported by competent and legal evidence. Cino v. Driscoll, 130 N.J.L. 535 (1943).

Under the circumstances, and for the aforesaid reasons, I find that the appellant has sustained its burden of establishing that the action of the Board was erroneous and should be reversed. Rule 6 of State Regulation No. 15.

It is, therefore, recommended that the action of the Board be reversed and the charge herein be dismissed.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

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

Accordingly, it is, on this 9th day of September 1971,

ORDERED that the action of respondent be and the same is hereby reversed, and the charge herein be and the same is hereby dismissed.

Richard C. McDonough,  
Director.

4. APPELLATE DECISIONS - DELRAY INN INC. v. VICTORY GARDENS -  
ORDER DISMISSING APPEAL.

Delray's Melody Inn Inc.,	)	
t/a Melody Inn,	)	
	)	
Appellant,	)	On Appeal
v.	)	
Mayor and Council of the	)	
Borough of Victory Gardens,	)	O R D E R
	)	
Respondent.	)	
-----	)	

Weiner, Schoifet & Hendler, Esqs., by Benjamin Weiner, Esq.,  
Attorneys for Appellant  
E. Marco Stirone, Esq., Attorney for Respondent

BY THE DIRECTOR:

Appellant appeals from the denial of its application for renewal of its plenary retail consumption license for the 1971-72 license period for premises 347 South Salem Street, Victory Gardens.

Prior to hearing appellant's attorneys advised me by letter dated August 27, 1971, that the said license has now been renewed by respondent and request that the appeal be dismissed.

Accordingly, it is, on this 31st day of August 1971,

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

Richard C. McDonough,  
Director.

5. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS) - LICENSE SUSPENDED  
FOR 90 DAYS, LESS 18 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

Henry Fessler )  
t/a Henry Fessler's Cocktail Lounge )  
568 Christopher Street )  
Orange, N. J., )

CONCLUSIONS  
and  
ORDER /

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

Sam Magnes, Esq., Attorney for Licensee  
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that  
on divers dates between April 20 and April 29, 1971, he per-  
mitted the acceptance of numbers bets on the licensed premises,  
in violation of Rule 6 of State Regulation No. 20.

Licensee has a previous record of suspensions: Twice  
by the municipal issuing authority for (1) twenty days effective  
October 16, 1950 for brawl on premises and (2) fifteen days ef-  
fective July 17, 1961 for "hours" violation, and twice by the  
Director for (1) twenty days effective May 15, 1956, for viola-  
tion of Rule 1 of State Regulation No. 38 (on appeal from issu-  
ing authority, Fessler v. Orange, Bulletin 1116, Item 1) and  
(2) twenty-five days effective November 25, 1957, for permit-  
ting brawl on premises (Re Fessler, Bulletin 1201, Item 4).

The previous record of suspensions for dissimilar vio-  
lations occurring more than five years ago disregarded for pen-  
alty purposes, the license will be suspended for ninety days,  
with remission of eighteen days for the plea entered, leaving  
a net suspension of seventy-two days (Re Arnone, Bulletin 1971,  
Item 3).

Accordingly, it is, on this 31st day of August 1971,

ORDERED that Plenary Retail Consumption License C-59,  
issued by the Municipal Board of Alcoholic Beverage Control of  
the City of Orange to Henry Fessler, t/a Henry Fessler's  
Cocktail Lounge, for premises 568 Christopher Street, Orange,  
be and the same is hereby suspended for seventy-two (72) days,  
commencing at 2 a.m. Monday, September 13, 1971, and terminat-  
ing at 2 a.m. Wednesday, November 24, 1971.

Richard C. McDonough,  
Director.



6. SEIZURE - FORFEITURE PROCEEDINGS - UNLAWFUL TRANSPORTATION OF ALCOHOLIC BEVERAGES THROUGH STATE - ALCOHOLIC BEVERAGES ORDERED FORFEITED - MOTOR VEHICLE ORDERED RETURNED.

In the Matter of the Seizure :  
 on July 25, 1970 of a quantity : Case No. 12,347  
 of alcoholic beverages and a :  
 1967 Dodge sedan on the public : On Hearing  
 highway, Route 295, Milepost 16 :  
 (northbound) in the Township : CONCLUSIONS and ORDER  
 of East Greenwich, County of :  
 Gloucester and State of New :  
 Jersey. :

.....  
 Rudd, Ackerman & Breitkopf, Esqs., by Arnold Gold, Esq.,  
 appearing for claimant, Morris Ballen.  
 Harry D. Gross, Esq., appearing for the Division.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing pursuant to N.J.S.A. 33:1-66 and State Regulation No. 28, to determine whether a quantity of alcoholic beverages and one 1967 Dodge sedan, described in the schedule attached hereto, made part hereof and marked Schedule "A", seized on July 25, 1970 on the public highway, Route 295 in East Greenwich Township, County of Gloucester and State of New Jersey, constitute unlawful property and should be forfeited.

At the hearing herein, Morris Ballen appeared and sought return of the seized alcoholic beverages and the motor vehicle. There was entered into evidence, by stipulation of counsel, the Division file which included the reports of ABC agents, the Director's certification that no alcoholic beverage license or special permit of any kind was ever issued to Morris Ballen, an inventory of the seized items, the affidavits of mailing and publication, and a report of chemical analysis of one of the seized items, certified by the Director that it was an alcoholic beverage fit for beverage purposes, with an alcoholic content of 11.89% by volume.

The reports of ABC agents indicate that on July 25, 1970 Officers C and M of the Greenwich Township Police observed a 1967 maroon Dodge sedan driving at what appeared to be an excessive rate of speed during a heavy rain in the northbound lane of Route 295, a public highway, in East Greenwich Township. It further appeared to the officers that the vehicle appeared to be very low in the rear.

Upon stopping the vehicle, the driver identified himself as Morris Ballen and the owner of the vehicle was ascertained to be the Stenton Music Corporation, 925 North 3rd Street, Philadelphia, Pennsylvania. Ballen readily admitted carrying a quantity of wine which he purchased "in the South". Subsequent testimony disclosed "the South" to be Washington, D. C.

With his consent, the officers inspected the trunk of the car and discovered the quantity of taxpaid wines, set forth in Schedule "A". Ballen stated that he possessed the invoices for the beverages but was unable to produce them. He was further unable to produce any special permit to transport alcoholic beverages through New Jersey.

He was then placed under arrest and charged with the unlawful possession and transportation of alcoholic beverages, in violation of N.J.S.A. 33:1-2 and N.J.S.A. 33:1-50.

The alcoholic beverages and the above described vehicle were thereupon seized by Officers C and M and thereafter turned over to agents of this Division.

Ballen gave the following account: He resides in Wynnewood, Pennsylvania and is the principal stockholder of Stenton Music Corporation. Additionally, he considers himself a connoisseur of wines, and has an extensive wine cellar in his home. Both he and his wife have cultivated a taste for unusual wines through traveling in Europe and through close association with friends with similar interests.

At the suggestion of a friend, he traveled to Rex Liquors, Wisconsin Avenue, Washington, D. C., having been advised that a number of unusual French wines, not readily available in New Jersey or Pennsylvania were available there. In furtherance of this allegation there was produced in evidence a receipted bill from Rex Liquors for a quantity of wine exactly in accord with the quantity listed in Schedule "A", and found in the trunk of Ballen's vehicle.

He also produced a copy of a certificate of title for the seized vehicle designating Stenton Music Corporation as the owner thereof.

Ballen added that he had no knowledge that he was violating the law in this undertaking; that the wine was all for personal consumption by himself, his wife or guests in his home; and that he had no intention of selling or offering for sale any of these wines. He further testified that while he had had the above-mentioned receipt in his possession at the time of his arrest, he was reluctant to surrender it to the police officers.

He further testified that upon being questioned he told the officer that he had 17 cases of wine in the trunk, where it was purchased and the cost thereof. Shortly thereafter the officer requested permission to search the trunk and advised Ballen that a search warrant could be obtained. Ballen thereupon consented to the search.

Having heard the testimony of Ballen and having observed his demeanor, I am satisfied that he was, in fact, transporting the beverages to his home in Pennsylvania for his own personal consumption and that he had no intention of selling any of the wines.

Counsel for the claimant argues that the wine was seized as the result of an illegal search and seizure. However, the observation of the officer as to the vehicle being very low in the rear, and apparently traveling at an excessive rate of speed, coupled with the voluntary statement of Ballen advising the officer of the contents of the trunk and permitting them to examine the same, is sufficient to negate this argument.

"The true rule with respect to the reasonableness of searches and seizures of structures by a government officer without a search warrant who is attempting to enforce the liquor laws, is that an officer must have direct, personal knowledge, through one or more of his 5 senses (sight, hearing, smell and combination of the senses) that the persons whose premises are to be searched or whose property is to be seized, are committing the suspected offense in his presence." Seizure Case No. 11,202, Bulletin 1570,

Item 10. Where a motor vehicle is concerned, the rule is no different. Here, as noted above, the claimant voluntarily admitted to the officers that the said alcoholic beverages were in the trunk. Thus, the officers, acting on this direct information, had the lawful right to inspect the trunk, and act accordingly.

Article IV D - Sec 491(2) act 154 Laws of 1969 of the Pennsylvania Liquor Code provides that the transportation of the seized items into Pennsylvania by Ballen would constitute an unlawful act for which Ballen would be subject to fine and/or imprisonment.

Section 130 of the Regulations of the Liquor Control Board of the State of Pennsylvania sets forth certain enumerated types of importation (Sect. 103.01 A through G) which are permissible provided the proper application therefor is made, (Sect. 103.02), the prescribed service charge is paid (Sect. 103.03) and proper consent certificates are acquired (Sect. 103.04). None of the enumerated types of permissible importation is applicable to the instant matter.

Rule 2 of State Regulation No. 18 governing the transportation of alcoholic beverages through New Jersey for delivery to another state requires the transporter to establish that such alcoholic beverages may lawfully be delivered to their destination. Absent such proof, the transportation of such alcoholic beverages is unlawful and subjects the property to forfeiture. Seizure Case No. 10,180, Bulletin 1321, Item 5.

The seized wine constitutes illicit alcoholic beverages because the quantity transported without a license was in excess of that permitted under our statutes. N.J.S.A. 33:1-1(i) and N.J.S.A. 33:1-2. Such illicit beverages and the motor vehicle in which they were transported and found constitute unlawful property and are subject to forfeiture. N.J.S.A. 33:1-1(y); N.J.S.A. 33:1-66; Rule 1 of State Regulation No. 28.

The Director, upon being satisfied that the person whose property was seized, has acted in good faith and has unknowingly violated the law may, in his discretion order the return of the property upon payment of reasonable costs incurred. (N.J.S.A. 33:1-66(e) and Rule 3(b) of State Regulation No. 28). Thus, although I am satisfied that Ballen unknowingly violated the law and had no intention of selling the wine, nevertheless, because he is unable to acquire the necessary consent to transport the wine into the State of Pennsylvania, I am imperatively compelled to recommend that the said alcoholic beverages be forfeited. Seizure Case No. 11,161, Bulletin 1572, Item 7.

Since there exists no prohibition with respect to the transportation of the automobile, it is further recommended that the 1967 Dodge sedan seized herein be returned to the Stenton Music Corporation upon the payment of reasonable costs of seizure and storage.

#### Conclusions and Order

No exceptions to the Hearer's Report were filed pursuant to Rule 4 of State Regulation No. 28.

Having carefully considered the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and adopt the same as my conclusions herein.

Accordingly, it is on this 31st day of August, 1971

DETERMINED and ORDERED that if, on or before the 22nd day of September, 1971, the Stenton Music Corporation pays the costs of the seizure and storage of its 1967 Dodge sedan, more fully described in Schedule "A", attached hereto, the said motor vehicle will be returned to it; and it is further

DETERMINED and ORDERED that the alcoholic beverages as listed in Schedule "A" constitute unlawful property, and the same be and are hereby forfeited in accordance with the provisions of N.J.S.A. 33:1-66, and they shall be retained for the use of hospitals and State, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

Richard C. McDonough,  
Director

SCHEDULE "A"

- 288 - containers of alcoholic beverages
- 1 - 1967 Dodge sedan, Serial No. DE41F7912911,  
Pennsylvania Registration H30-619.

7. ACTIVITY REPORT FOR AUGUST 1971

ARRESTS:			
Total number of persons arrested	-----		58
Licensees and employees	19		
Bootleggers	4		
Minors	35		
SEIZURES:			
Distilled alcoholic beverages - gallons	-----		13.472
Wine - gallons	-----		49.075
Brewed malt alcoholic beverages - gallons	-----		44.319
RETAIL LICENSEES:			
Premises inspected	-----		423
Premises where alcoholic beverages were gauged	-----		351
Bottles gauged	-----		5,934
Premises where violations were found	-----		128
Violations found	-----		190
Unqualified employees	57	Disposal permit necessary	13
No Form E-141-A on premises	39	Prohibited signs	1
Form E-141-A incomplete	31	Other violations	28
Application copy not available	21		
STATE LICENSEES:			
Premises inspected	-----		18
License applications investigated	-----		11
COMPLAINTS:			
Complaints assigned for investigation	-----		325
Investigations completed	-----		345
Investigations pending	-----		283
LABORATORY:			
Analyses made	-----		126
Refills from licensed premises - bottles	-----		67
Bottles from unlicensed premises	-----		18
IDENTIFICATION:			
Criminal fingerprint identifications made	-----		20
Persons fingerprinted for non-criminal purposes	-----		492
Identification contacts made with other enforcement agencies	-----		293
DISCIPLINARY PROCEEDINGS:			
Cases transmitted to municipalities	-----		2
Violations involved	-----		2
Sale to minors	2		
Cases instituted at Division	-----		18
Violations involved	-----		23
Sale to minors	7	Fraud in application	1
Permitting bookmaking on premises	2	Permitting immoral activity on prem.	1
Fail. to close prem. during prohibited hours	2	Permitting hostess activity on prem.	1
Sale during prohibited hours	2	Fraud and front	1
Unqualified employees	1	Failure to keep true books of acct.	1
Permitting brawl on premises	1	Sale outside scope of license	1
Possessing liquor not truly labeled	1	Possessing indecent matter	1
Cases brought by municipalities on own initiative and reported to Division	-----		16
Violations involved	-----		24
Sale to minors	8	Permitting foul language on premises	1
Sale during prohibited hours	3	Act of violence	1
Fail. to close prem. during prohibited hours	2	Empl. unregistered bartender (local reg.)	1
Unqualified employees	2	Perm. minors unaccomp. by adults in barroom (local reg.)	1
Conducting business as a nuisance	2	Permitting gambling on premises	1
Poss. of lottery tickets on prem.	1	Perm. persons of ill repute on prem.	1
HEARINGS HELD AT DIVISION:			
Total number of hearings held	-----		52
Appeals	6	Eligibility	14
Disciplinary proceedings	29	Seizures	3
STATE LICENSES AND PERMITS:			
Total number issued	-----		1,639
Licenses	10	Wine permits	25
Solicitors' permits	54	Miscellaneous permits	310
Employment permits	507	Transit insignia	184
Disposal permits	77	Transit certificates	53
Social affair permits	419		
OFFICE OF AMUSEMENT GAMES CONTROL:			
Licenses issued	5	Premises inspected	619
State Fair licenses issued	88	Premises where violations were found	18
Enforcement files established	17	Number of violations found	25

RICHARD C. McDONOUGH  
Director of Alcoholic Beverage Control  
Commissioner of Amusement Games Control

Dated: September 10, 1971

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY  
LABELED - FALSE STATEMENT IN APPLICATION - PRIOR SIMILAR  
RECORD - LICENSE SUSPENDED FOR 45 DAYS, LESS 9 FOR PLEA.

In the Matter of Disciplinary	)	
Proceedings against	)	
Falcaro's Restaurant, Inc.	)	
t/a Falcaro's Pit	)	CONCLUSIONS
Route 46	)	and
Lodi, N. J.,	)	ORDER
Holder of Plenary Retail Consumption	)	
License C-4, issued by the Mayor and	)	
Council of the Borough of Lodi.	)	

-----  
Licensee, Pro se  
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads guilty to two charges alleging that (1) on June 10, 1971 it possessed five bottles of whiskey the labels of which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20, and (2) in its application for current license it failed to disclose a prior suspension, in violation of R.S. 33:1-25.

Licensee has a record of suspension by Director for five days effective December 1, 1969 for violations similar to the first charge herein (Re Falcaro's Restaurant, Inc., Bulletin 1893, Item 9), nondisclosure of which being the subject of the second charge.

The suspension of license for similar violation occurring within the past five years considered, the license will be suspended on the first charge for thirty-five days, and on the second charge for ten days (Re Raimondo, Bulletin 1759, Item 5), making a total of forty-five days, with remission of nine days for the plea entered, leaving a net suspension of thirty-six days.

Accordingly, it is, on this 2nd day of September 1971,

ORDERED that Plenary Retail Consumption License C-4, issued by the Mayor and Council of the Borough of Lodi to Falcaro's Restaurant, Inc., t/a Falcaro's Pit, for premises on Route 46, Lodi, be and the same is hereby suspended for thirty-six (36) days, commencing at 2:00 a.m. Tuesday, September 7, 1971, and terminating at 2 a.m. Wednesday, October 13, 1971.

Richard C. McDonough,  
Director.

9. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary )  
 Proceedings against )

Brookside Tavern, Inc. )  
 Noteboom & Bridge Streets )  
 Pemberton Township )  
 P.O. Browns Mills, N. J. )

CONCLUSIONS  
 AND ORDER

Holder of Plenary Retail Consumption )  
 License C-11 (for the 1970-71 and )  
 1971-72 license periods) issued by the )  
 Township Committee of the Township of )  
 Pemberton. )

-----  
 James Logan, Jr., Esq., Attorney for Licensee.  
 Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 8, 1971 it sold alcoholic beverages to two minors, ages 18 and 20 respectively, in violation of Rule 1 of State Regulation No. 20.

Licensee corporation has a prior record of three suspensions of license for (1) five days effective October 31, 1955 for sale to minors (Re Brookside Tavern, Inc., Bulletin 1088, Item 6), (2) fifteen days effective February 6, 1962, also for sale to minors (Re Brookside Tavern v. Pemberton, Bulletin 1437, Item 1) and (3) fifteen days effective June 3, 1963 for possession of alcoholic beverages not truly labeled (Re Brookside Tavern, Inc., Bulletin 1518, Item 6).

The suspension of 1955 for similar violation occurring more than ten years ago disregarded for penalty purposes and the suspension in 1963 disregarded as a dissimilar offense occurring more than five years ago, the license will be suspended on the charge herein for fifteen days (Re The Curio, Inc., Bulletin 1914, Item 4), with five days added in consequence of the similar offense occurring in 1962 within ten years considered, making a total of twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re G & J Lounge, Inc., Bulletin 1960, Item 8. However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$630 in lieu of suspension.

Accordingly, it is, on this 1st day of September 1971,

ORDERED that the payment of a \$630 fine by the licensee is hereby accepted in lieu of a suspension of license for fifteen days.

Richard C. McDonough  
 Director

10. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF  
STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - LICENSE  
SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.- APPLICATION FOR FINE  
IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary )  
Proceedings against )

Tenth Avenue Liquors, A Corp. )  
t/a Tenth Avenue Tavern )  
350-10th Avenue )  
Paterson, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-131 issued by the Board of )  
Alcoholic Beverage Control of the )  
City of Paterson. )

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Joseph M. Keegan, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on  
Thursday, May 27, 1971 at about 11:05 P.M. it sold a bottle of  
rum for off-premises consumption, in violation of Rule 1 of  
State Regulation No. 38.

Although this licensee corporation has no previous record of  
suspension, licenses held by other corporate licensees in which  
Benjamin W. Berman (an officer and 50% stockholder of this corporate  
licensee) had an interest, were suspended by the Director for ten  
days effective June 1, 1954 for local hours violation (Re The Lope  
Inn, Bulletin 1021, Item 5); by the Director for twenty-five days  
effective September 16, 1957 for sale in violation of State  
Regulation No. 38 (Re The Lope Inn, Bulletin 1191, Item 4), and  
by the Director for twenty-five days effective March 26, 1962  
for sale in violation of State Regulation No. 38 (Re Spring Bar  
& Grill, Inc., Bulletin 1447, Item 9).

The prior record of the suspensions for similar violations  
in 1954 and 1957 occurring more than ten years ago disregarded in  
admeasuring the penalty but the prior record of the suspensions  
for similar violation in 1962 occurring more than five but less  
than ten years ago considered, the license would normally be  
suspended for twenty days (Re 188 Boyd St., Inc., Bulletin 1948,  
Item 9) with remission of five days for the plea entered, leaving  
a net suspension of fifteen days.

However, the licensee has made application for the imposition  
of a fine in lieu of suspension, in accordance with the provisions  
of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I  
have determined to accept an offer in compromise by the licensee  
to pay a fine of \$600 in lieu of suspension.

Accordingly, it is, on this 27th day of August 1971,

ORDERED that the payment of a fine of \$600 by the licensee is  
hereby accepted in lieu of a suspension of license for fifteen days.

Richard C. McDonough  
Director



## 11. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER.

In the Matter of Disciplinary )  
Proceedings against )  
Rose's Corner, Inc. (A Corporation) )  
t/a Rose's Corner Bar ) SUPPLEMENTAL ORDER  
1449 S. Clinton Avenue )  
Trenton, N.J., )

Holder of Plenary Retail Consumption )  
License C-204, issued by the City )  
Council of the City of Trenton. )  
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Licensee, Pro se  
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

On July 22, 1971, Conclusions and Order were entered in the matter suspending the license for twenty days commencing August 6, 1971 after the licensee pleaded non vult to a charge alleging that on June 26, 1971 it sold a one-half gallon of whiskey below filed price in violation of Rule 5 of State Regulation No. 30.

Thereafter, on August 5, 1971 an Amended Order was entered staying the suspension until entry of a further order, pending consideration of an application by the licensee for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971. Licensee now requests that its said application for the imposition of a fine be withdrawn, and that the suspension be reimposed.

Accordingly, it is, on this 27th day of August, 1971,

ORDERED that Plenary Retail Consumption License C-204 issued by the City Council of the City of Trenton to Rose's Corner, Inc., (A Corporation) t/a Rose's Corner Bar for premises 1449 S. Clinton Avenue, Trenton, be and the same is hereby suspended for twenty (20) days commencing 2:00 a.m. Tuesday, September 7, 1971 and terminating at 2:00 a.m. Monday, September 27, 1971.

  
Richard C. McDonough  
Director