

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

BULLETIN 1952

February 25, 1971

TABLE OF CONTENTSITEM

1. APPELLATE DECISIONS - SOUTH JERSEY PACKAGE STORES ASSOCIATION  
v. CHERRY HILL AND GREENBRIER  
RESTAURANT EAST, INC.  
  
HAWORTH ET ALS. v. CHERRY HILL AND  
GREENBRIER RESTAURANT EAST, INC.
2. APPELLATE DECISIONS - CALLAHAN v. ATLANTIC CITY and  
DOCK'S OYSTER HOUSE, INC.
3. ACTIVITY REPORT FOR DECEMBER 1970.
4. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM  
JULY 1, 1970 THROUGH DECEMBER 31, 1970.
5. DISCIPLINARY PROCEEDINGS (Ridgefield) - AMENDED ORDER.
6. DISCIPLINARY PROCEEDINGS (Trenton) - LEWDNESS AND IMMORAL  
ACTIVITY (INDECENT ENTERTAINMENT) - HOSTESS ACTIVITY -  
PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 70 DAYS,  
LESS 5 FOR PLEA.
7. STATE LICENSES - NEW APPLICATIONS FILED.

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

BULLETIN 1952

February 25, 1971

1. APPELLATE DECISIONS - SOUTH JERSEY PACKAGE STORES ASSOCIATION  
 v. CHERRY HILL AND GREENBRIER  
 RESTAURANT EAST, INC.

HAWORTH ET ALS. v. CHERRY HILL AND GREENBRIER  
 RESTAURANT EAST, INC.

South Jersey Package Stores Association, )  
 )  
 Appellant, )

v. )

Township Council of the Township of Cherry Hill, and Greenbrier Restaurant East, Inc., t/a "Greenbrier East", )  
 )

Respondents. )

On Appeal

CONCLUSIONS  
 and  
 ORDER

----- )  
 H. G. Haworth, et als., )  
 )  
 Appellants, )

v. )

Township Council of the Township of Cherry Hill, and Greenbrier Restaurant East, Inc., t/a "Greenbrier East", )  
 )

Respondents. )

----- )  
 Richman, Berry & Ferren, Esqs., by Edwin T. Ferren, III, Esq., Attorneys for Appellant South Jersey Package Stores Assoc. )  
 Kmiec & Palumbo, Esqs., by Ralph J. Kmiec, Esq., Attorneys for Appellant Haworth, et als. )  
 Wallace, Douglas, Gerry & Mariano, Esqs., by Warren C. Douglas, Esq., Attorneys for Respondent Township. )  
 Wilinski, Coruzzi & Susko, Esqs., by Robert Wilinski, Esq., Attorneys for Respondent Greenbrier Restaurant East, Inc. )

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

The aforesaid appeals are from the action of the respondent Township Council (hereinafter Council) whereby on April 17, 1970 by a three-to-two vote of the members thereof, it approved an application for a person-to-person and place-to-place transfer of a plenary retail consumption license from Over-The-Top Cafe, Inc., t/a "Over-The-Top Cafe" to Greenbrier Restaurant East, Inc., t/a "Greenbrier East" (hereinafter licensees) and from premises 640 Merchant Street to premises to be constructed at the northeast corner of Springdale and Greentree Roads, Cherry Hill.

Appellant South Jersey Package Stores Association in its petition of appeal sets forth various grounds for reversal thereof but the attorney representing said Association, announced when the instant hearing began:

"Our appeal is solely on one ground, your Honor, and I want to make that clear: that we do not object to the transfer and that our one ground is that it's a strict C license without broad package privileges, and it is our contention that the applications as filed with the municipality would permit the license holder to operate a second package goods store, and that's the sole objection we make on that point."

Appellants H. G. Hayworth, et als contended in their petition of appeal that the action of the Council was erroneous because of reasons that follow:

"a. Said transfer of the license is in direct violation of the Alcoholic Beverage Control Laws of the State of New Jersey and the regulations promulgated thereunder by the Director of the Division of Alcoholic Beverage Control.

b. The transfer of said license is socially undesirable.

c. Said transfer of the license was arbitrary and unreasonable.

d. In voting on said transfer a member of the Council of the Township of Cherry Hill was guilty of a conflict of interest.

e. There is no public need or necessity for the license of the premises to which the transfer was approved."

The answer filed on behalf of the Council and the licensee respectively, denied the allegations in the petitions of appeal.

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, at which time all parties had the opportunity to produce testimony and cross-examine witnesses.

An objection, among others, on the part of the appellants (with exception of the matter of South Jersey Package Stores Association) was that Councilman Harrison should have disqualified himself was pursued with great vigor on the part of the appellants.

It appears clear from the record herein and it has not been disputed in any manner whatsoever, that two sons of Councilman Harrison were and still are employed at another licensed premises in which Terry A. Chigounis (president of the licensee herein) is an officer and stockholder.

The testimony of Councilman Harrison discloses that he has known Chigounis for approximately seven years and he characterized his relationship with him "I would say bordering on that, acquaintanceship and friendship." Councilman Harrison stated that on occasions Chigounis has treated him to dinner and that he has done the same for Chigounis.

Councilman Harrison said that he was not influenced "in no manner, shape or form" by the fact that his sons were part time employees of Chigounis, at the other licensed liquor establishment wherein Chigounis had an interest.

Moreover Councilman Harrison testified that he voted in favor of the transfer and gave the following reasons:

"As a shopping center, yes. There were no objections that I recall having read the minutes of the zoning board, et cetera. And also the fact that there was an imbalance as far as licenses were concerned in the township. Most of the licenses seemed to be on the west side and very few on the east side. And, again, another point was the fact that the license in question having resided in the given spot for x number of years, and as that area is in a rundown condition, the husband of the owner having died and the lady in question not being able to handle the situation, I thought that the transfer there would be a good point."

Councilman Harrison also stated he was of the opinion that there is a need and necessity for a liquor license at the proposed premises as an adjunct to the restaurant business.

The granting of a liquor license has been held to involve action judicial in nature. Dufford v. Nolan, 46 N.J.L. 87 (Sup. Ct. 1884), which must therefore follow that the transfer of a license is also a judicial action on the part of the issuing authority. Thus the standards of disqualifying interest applicable in the matter now under consideration can be no less exacting than in the case of purely judicial action. Township Committee of Freehold Township v. Gelber, 26 N.J. Super. 388 (App.Div. 1953). Each case where the question of disqualification of a member of the local issuing authority is involved must be judged on the facts contained therein.

It has been consistently ruled where there is a relationship between a judge and an applicant (except where the interest of the member of the governing body is too insubstantial) a withdrawal of the judge or hearing officer is in order.

As expressed by Justice Jacobs in State v. Deutsch, 34 N.J. 190 at p.211 "It may be noted that they have extended their practice of withdrawal to cases where counsel, though unrelated by blood or affinity, was once a close associate such as a former law partner." See Frank, "Disqualification of Judges" 56 Yale, L.J. 605 (1947).

Justice Jacobs further stated in the Deutsch case supra, that:

"It is vital that justice be administered not only with a balance that is clear and true but also with such eminently fair procedures that the litigants and the public will always have confidence that it is being so administered. See Frankfurter, J. in Offutt v. United States, 348 U.S. 11, 14, 75 S. Ct. 11, 13, 99 L. Ed. 11, 16 (1954): 'justice must satisfy the appearance of justice.' To that end judges must refrain from engaging in any conduct which may be brought into question."

A public office is a public trust. Councilmen, as members of a local issuing authority, act in a capacity as fiduciaries and trustees of the public and thus must serve that interest with the highest fidelity. The law tolerates no mingling or self-interests. It demands exclusive loyalty. Driscoll v. Burlington-Bristol Bridge Co., 8 N.J. 433, 474 (1952) certiorari denied Bell v. Driscoll, 344 U.S. 838, 73 S. Ct. 34, 97 L. ed. 652 (1952); Ames v. The Board of Education of Montclair, 97 Eq. 60, 64 (Ch. 1925). A quasi-judicial act of a municipal body is rendered voidable by the voting participation of a member thereof who is at the time subject to a direct or indirect private interest which is at variance with the impartial performance of his public duty. Aldom v. Borough of Roseland, 42 N.J. Super. 493, 501. Quaere in the instant case is whether the interest of Councilman Harrison, whose sons are employed in another liquor establishment operated by their employer and his acquaintanceship bordering on friendship with a major officer of both of the corporate enterprises, required him to disqualify himself entirely in the matter.

Judge, now Mr. Justice Francis, speaking for the Appellate Division, in Aldom v. Borough of Roseland, supra, states the position in the following language:

"The interest which disqualifies is not necessarily a direct pecuniary one, nor is the amount of such an interest of paramount importance. It may be indirect; it is such an interest as is covered by the moral rule: no man can serve two masters whose interests conflict. Basically the question is whether the officer, by reason of a personal interest in the matter, is placed in a situation of temptation to serve his own purposes to the prejudice of those for whom the law authorizes him to act as a public official. And in the determination of the issue, too much refinement should not be engaged in by the courts in an effort to uphold the municipal action on the ground that his interest is so little or so indirect. Such an approach gives recognition to the moral philosophy that next in importance to the duty of the officer to render a righteous judgment is that of doing it in such a manner as will beget no action. People ex rel. Schenectady Illuminating Co. v. Board of Sup'rs, 88 Misc. 226, 151 N.Y.S. 830 (Sup. Ct. 1914), affirmed 166 App. Div. 758, 151 N.Y.S. 1012 (App. Div. 1915); Tuscan v. Smith, 130 Me. 36, 153 A. 289, 73 A.L.R. 1344 (Sup. Jud. Ct. 1931); In re Conant, 102 Me. 477, 67 A. 564 (Sup. Jud. Ct. 1907); 43 Am. Jur., Public Officers, ss 266 (1942). More specifically, it has been said in connection with the making of a municipal contract:

'If his interest in the contract (here, sheet metal foreman of the proposed corporate contractor) is such as would tend in any degree to influence him in making the contract, then the instrument is void because contrary to public policy, the policy of the law being that a public officer in the discharge of his duties as such should be absolutely free from any influence other than that which may directly grow out of the obligations that he owes to the public at large.' Stockton

Supply Co. v. Wheeler, 68 Ca. App. 592,  
229 P. 1020, 1024 (App. Ct. 1924).  
(Insertion ours).'

The rule of law governing "disqualifying interest" is set forth in McNamara v. Saddle River Borough, 64 N.J. Super. 431, App. Div. 1960, wherein it was said:

"If there is 'interest', there is disqualification automatically, entirely without regard to actual motive, as the purpose of the rule is prophylactic, that is, to prevent the possibility of an official in a position of self-interest being influenced thereby to deviate from his sworn duty to be guided only by the public interest in voting as such official. Van Itallie v. Franklin Lakes, 28 N.J. 258, 268 (1958); Griggs v. Princeton Borough, 33 N.J. 207, 219 (1960)."

The issue of disqualification of municipal officials because of a conflict of interest is whether there is a potential for conflict, not whether the public servant succumbs to the temptation or is even aware of it. (emphasis ours) Griggs v. Princeton Borough, supra. In the cited cases the persons were men of integrity and were motivated by sincerity of purpose, nevertheless, the court held it was the existence of such interest which was decisive, not whether such interest was actually influential. Cf. Zell v. Borough of Roseland, 42 N.J. Super. 75, 82 (App.Div. 1956); Aldom v. Roseland, supra.

If Councilman Harrison had not voted there would have been a two-to-two tie vote and very likely an appeal as from a denial thereof. Thus the burden of proof in establishing that the Council's action was erroneous and should be reversed would then rest with the appellants. Rule 6 of State Regulation No. 15.

I am satisfied that Councilman Harrison should have refrained from participating and voting in the matter.

In view of the aforesaid it appears unnecessary to consider any other points raised by appellants in their petition of appeal.

Considering all the facts and circumstances herein and the legal principles applicable thereto, I am of the opinion that appellants have established their case by a fair preponderance of the evidence and I therefore, recommend that an order be entered reversing the action of the respondent Council in approving the transfer in question.

#### Conclusions and Order

Exceptions to the Hearer's report and written argument in support thereof have been filed by the respondent licensee and respondent Council. Answering written argument has been filed by the individual appellants. Additionally, oral argument was held before me.

The Hearer's recommendations turn entirely upon a finding that Councilman Harrison "should have refrained from participating and voting in the matter." No specific subsidiary finding was made for the basis of such ultimate conclusion but it is obvious from what preceded such finding that the Hearer concluded that Councilman Harrison's relationship to Chigounis (the licensee's president)

placed him in a conflict-of-interest position which precluded his participation in the consideration of the transfer application.

The record discloses that Councilman Harrison, who is a vice president of a bank in the Cherry Hill area, handling public relations, marketing and new accounts for the bank, patronizes Chigounis' other licensed restaurant in Cherry Hill Township, having lunch or dinner there once a week. Occasionally Chigounis picks up his dinner check and occasionally Councilman Harrison has done the same for him. Nothing in the record indicates that the relationship extended beyond that of restaurateur-customer, either socially or business-wise. In fact, Chigounis testified that he did not consider himself a personal friend of the Councilman. The relationship was characterized by Councilman Harrison as bordering on acquaintanceship and friendship.

While it is questionable judgment for a member of a municipal licensing issuing authority to permit a licensee within his municipality to purchase his dinner, even on a reciprocal basis, I am unable to find that such constitutes an interest which would disqualify the member from participating in a license application proceeding by such licensee or a corporation with which he is connected, as here. See LaRue v. East Brunswick, 68 N.J. Super. 435, 449 (App.Div. 1961), a case in which the court, faced with a contention that members of a municipal governing body which had amended a zoning ordinance to benefit a builder were disqualified from so acting by reason of their acceptance of a free dinner from the builder, stated, in reviewing the decisions on conflict of interest:

"These holdings merely reflect a judicial understanding of human nature; faced with the opportunity to further his own interests, or with a sharply drawn conflict between his own interests and the public welfare, an individual may, if continually tempted, at some point be swayed, to the detriment of the public. No comparable temptation exists herein. The factor of the dinner alone, while an unfortunate incident, is simply too remote in and of itself to justify vitiation of the ordinance."

See also South Jersey Retail Liquor Stores Association, et als. v. Haddon and Dostar, Inc., Bulletin 1836, Item 1, for a Division statement of the principles applicable herein.

As to the employment of Councilman Harrison's two sons at Chigounis' same restaurant, the record discloses that these boys were seventeen and sixteen years old, respectively, at the time of the hearing held herein, at which time about eighty persons were employed at said restaurant; that both boys are high school students, working only part-time as bus boys and dish-washers; that the boys earned between \$15.0 and \$1.90 an hour -- minimal wages these days; that such type of employees is at a premium in the restaurant business, there being a shortage of this type of restaurant personnel; and that the boys were hired through their High School Guidance Counselor's Office many months prior to the action under review. Does this constitute an interest which would disqualify Councilman Harrison from acting in this matter? I think not. See Van Itallie v. Franklin Lakes, 28 N.J. 258, 268 (1958), in which our Supreme Court held that the employment of a councilman's brother as an accountant-bookkeeper in a firm employing seven hundred persons would not disqualify the councilman from acting on zoning ordinances which would benefit such firm. The court stated:

"... Nor are we faced with the situation where a member of the councilman's family is an interested party. However, it is obvious that a councilman should not participate in a municipal matter of this nature where he might be reasonably expected to favor or promote a relative's interest of a substantial character. Plaintiff contends that the fact that Councilman Birmer's brother is an employee of an interested party in itself places the councilman in a position where there is a conflict between his personal and public loyalties. We know of no case that has gone this far. The brother was employed by the McBride corporation long before this controversy arose. He is in the lower echelon of the personnel of a corporation that employs 700 persons. There is no evidence that his employment status will in any manner be enhanced by the passage of these ordinances." (emphasis added).

I find that Councilman Harrison's relationship with Chigounis, as hereinbefore described, both as to him personally and through his unemancipated two sons, whether viewed individually or cumulatively, is so remote and insubstantial as to not be deemed to have the capacity to tempt him to depart from his sworn public duty. His personal relationship to Chigounis is of a very tenuous nature, and there is no evidence that his sons' lower-rung employment status would be enhanced in any manner if he acted favorably on the application in question. I therefore find that Councilman Harrison was not disqualified from participating in this matter.

However, in passing, I am taking this opportunity to caution all members of municipal license issuing authorities throughout the State that they should exercise good judgment in refraining from gratuitously accepting from any retail licensee under their jurisdiction anything of value, such as free meals, drinks, etc. In this way not even the suspicion or appearance of anything other than complete impartiality will be imputed to those whose duties include the primary responsibility to administer and enforce the Alcoholic Beverage Law and regulations at the retail level of the industry.

Now, to turn to the merits of this controversy. Appellant South Jersey Package Stores Association contends that the licensee proposes to conduct a package goods store at the premises to be constructed. Since its license does not include the broad package privilege, it is prohibited from doing so. R.S. 33:1-12.23 et seq.; State Regulation No. 32.

I have carefully examined the floor plans of the proposed licensed premises and find that the proposed sale and display for sale of alcoholic beverages in original containers for off-premises consumption will take place in a bona fide public barroom if the premises are constructed in accordance with such plans. The plans show a large bar (with total perimeter size of more than 100 ft.) in a room approximately 38 ft. x 64 ft. in size with no separation between said bar and the package goods area. Consequently there will be no conflict with the cited statute and regulation. If it should eventuate that a violation of this nature should nevertheless occur, appropriate disciplinary action may be taken by the respondent Council or this Division.

The other grounds of appeal argued by the remaining appellants question (1) the desirability of the location of the proposed licensed premises, (2) the adequacy of the licensee's filed plans, and (3) the fitness of the applicant licensee. I find the latter ground is not supported by the evidence adduced herein. I will therefore at this point consider the other two grounds.

The proposed site is located on the northeast corner of Springdale and Green Tree Roads, a heavily traveled intersection. It is about six acres in size and the licensee intends to construct thereon a small shopping center in addition to its proposed licensed building which will accommodate about 300 sit-down restaurant patrons. This location was recently rezoned from residential to commercial use at the behest of Chigounis. It is in an area close to several large one-family residence developments of well-to-do homes and is also close to several large industrial parks at which several thousand persons are employed. It is distant approximately 500 feet from a church, about 1,300 feet from an elementary school, and about 1,500 feet from the nearest licensed premises in Cherry Hill Township. It is in the portion of the township east of the New Jersey Turnpike, the said portion occupying about forty percent of the township's land area and the portion west of the Turnpike occupying the remaining sixty per cent. Said eastern portion is the part of the township in which the greatest residential and industrial growth has recently occurred. Of the total number of thirty-five retail consumption licenses outstanding in the township, only one, other than the one involved herein, is presently located east of the Turnpike. Of the total number of eight plenary retail distribution licenses outstanding in the township, one presently is located east of the Turnpike -- it is about a mile distant from the proposed location involved herein.

Petitions have been received from a large number (100-150) of nearby residents and the pastor of the nearby church objecting to the proposed transfer. The objections are principally to the increased traffic the transfer will cause, the threat to safety of children going to and from school, and the lack of need of an additional license in this area. Running through the record is the basic antipathy of the local residents towards the location of a licensed premises near their homes.

Petitions were also received from a large number of industrial firms located nearby favoring the establishment of a restaurant-cocktail lounge to cater to their business interests.

Mayor Gilmour and Councilman Harrison testified that they voted for the transfer because they believed there was a need for a high-class restaurant with alcoholic beverage facilities in such area of the township; that the transferor-licensee was a widow attempting to conduct her licensed business in a rundown area but having difficulty doing so, and the transfer would be a "good move for the township;" that there had been little or no objection to the rezoning of this site; and that there was an imbalance in the location of almost all the licenses in the western part of the township. The resolution approving the transfer imposed two special conditions (which are herewith approved) concerning construction of the licensed premises and requiring provision for at least three hundred seats in a sit-down restaurant offering a full menu.

Whether or not a place-to-place transfer should be granted in a case of this nature is within the sound discretion of the municipal issuing authority. Once it so acts, its action may be reversed on appeal only in the event it constitutes a clear abuse or unreasonable or arbitrary exercise of such discretion. On appeal it is not my function to substitute my judgment for that of the issuing authority or reverse its ruling if reasonable support for it can be found in the record. Lyons Farms Tavern, Inc. v. Newark et al., 55 N.J. 292, 307 (1970). See also Fanwood v. Rocco, 33 N.J. 404 (1960).

Having carefully considered the entire record herein, I find that the action in question constituted a reasonable exercise of the Council's authority and is amply supported by a preponderance of the proofs herein. The Council was in a position to weigh the competing interests of all the persons involved and determine in which direction the public interest predominated. This is precisely the type of case in which I should not second-guess its decision. The reasons hereinabove set forth for its action by two of its members fully support the approval of the transfer.

One point remains. The architect's plans introduced in evidence herein do not show the exterior appearance and design of the proposed building or the exterior materials to be used, as required by Rule 2 of State Regulation No. 6. Although it appears that same will be similar to the existing other restaurant of Terry Chigounis, and that the omitted information may in fact be in the possession of the municipal authorities in connection with the zoning matter, good practice requires that the plans be supplemented to include this information and that the licensee advertise such fact to afford members of the public an opportunity to be heard solely as to such issue (not as to the merits of this transfer) which was raised for the first time during the appeal hearing and is of an insubstantial nature.

Under the circumstances, I conclude that the appellants have failed to sustain the burden of establishing that the Council's action was erroneous and I will therefore affirm its action.

Accordingly, it is, on this 11th day of December 1970,

ORDERED that the action of respondent Township Council of the Township of Cherry Hill be and the same is hereby affirmed, and that the appeals herein be and the same are hereby dismissed, subject to the following special conditions:

1. That the respondent Greenbrier Restaurant East, Inc. file with said Council supplementary plans setting forth the exterior appearance and design of the proposed licensed building and the exterior materials to be used therefor, and that it publish public notice thereof as required by State Regulation No. 6.
2. That the premises as described in the plans and specifications prepared and submitted by the said respondent and heretofore determined to be acceptable by said Council, and as supplemented by additional plans to be submitted and approved by the Council subject to any modification required by the Township Planning Board, together with the proposed shopping center of which the licensed premises are a part, shall first be completed before the license transfer shall be deemed effective and the license certificate endorsed.

3. That the licensed premises must be operated as a sit-down restaurant having provision for at least three hundred seats and offering a full menu.

RICHARD C. McDONOUGH  
DIRECTOR

2. APPELLATE DECISIONS - CALLAHAN v. ATLANTIC CITY and DOCK'S OYSTER HOUSE, INC.

John P. Callahan, t/a )  
Callahan's Bar, )

Appellant,

v. )

On Appeal

Board of Commissioners of the )  
City of Atlantic City, and )  
Dock's Oyster House, Inc., t/a )  
Dock's Oyster House, )

CONCLUSIONS and ORDER

Respondents. )  
----- )

Blatt, Blatt & Mairone, Esqs., by Martin L. Blatt, Esq.,  
Attorneys for Appellant

Murray Fredericks, Esq., by Chaim H. Sandler, Esq.,  
Attorney for Respondent Board of Commissioners

Gordon, Lazarow & Aron, Esqs., by Joseph Lazarow, Esq.,  
Attorneys for Respondent Dock's Oyster House, Inc.

BY THE DIRECTOR:

Appellant appeals from transfer on July 16, 1970 of a plenary retail consumption license from Hotel Penn-Atlantic City, t/a Hotel Penn-Atlantic, 1219 Bacharach Boulevard, to Dock's Oyster House, Inc., t/a Dock's Oyster House, at premises 2405 Atlantic Avenue, Atlantic City.

At the time of hearing herein, and before testimony was presented, the parties represented by counsel agreed to entry of an order as follows:

1. This matter is remanded to respondent Board of Commissioners for re-hearing on or about January 7, 1971;

2. Notice of said hearing shall be published pursuant to State Regulation No. 6 on December 24 and December 31, 1970; and

3. Respondent Dock's Oyster House, Inc. shall voluntarily suspend operation of its liquor license privilege pending the outcome of said hearing.

Accordingly, it is, on this 17th day of December 1970,

ORDERED that the appeal herein be and the same is hereby remanded to respondent Board of Commissioners for a full and complete hearing pursuant to State Regulation No. 6 and in accordance with the stipulations hereinabove set forth.

RICHARD C. McDONOUGH  
DIRECTOR

3.

ACTIVITY REPORT FOR DECEMBER 1970

ARRESTS:

Total number of persons arrested - - - - -		16
Licensees and employees - - - - -	9	
Bootleggers - - - - -	7	

SEIZURES:

Stills - 50 gallons or under - - - - -		1
Distilled alcoholic beverages - gallons - - - - -		41,661
Wine - gallons - - - - -		6
Brewed malt alcoholic beverages - gallons - - - - -		8,157

RETAIL LICENSEES:

Premises inspected - - - - -		709
Premises where alcoholic beverages were gauged - - - - -		571
Bottles gauged - - - - -		9,486
Premises where violations were found - - - - -		132
Violations found - - - - -		188
No Form E-141-A on premises - - - - -	33	No Disposal Permit - - - - - 5
Unqualified employees - - - - -	42	Other mercantile business - - - - - 1
Form E-141-A incomplete - - - - -	31	Prohibited signs & practices - - - - - 1
Application copy not available - - - - -	26	Other violations - - - - - 49

STATE LICENSEES:

Premises inspected - - - - -		10
License applications investigated - - - - -		3

COMPLAINTS:

Complaints assigned for investigation - - - - -		382
Investigations completed - - - - -		380
Investigations pending - - - - -		294

LABORATORY:

Analyses made - - - - -		109
Refills from licensed premises - bottles - - - - -		68
Bottles from unlicensed premises - - - - -		7

IDENTIFICATION:

Criminal fingerprint identifications made - - - - -		5
Persons fingerprinted for non-criminal purposes - - - - -		383
Identification contacts made with other enforcement agencies - - - - -		277

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - -		8
Violations involved - - - - -		9
Sale to minors - - - - -	4	Failure to close prem. during prohibited hours - - - - - 1
Sale during prohibited hours - - - - -	4	
Cases instituted at Division - - - - -		22
Violations involved - - - - -		22
Possessing liquor not truly labeled - - - - -	5	Permitting bookmaking on premises - - - - - 1
Permitting lottery acty. on premises - - - - -	4	Fraud and front - - - - - 1
Sales to minors - - - - -	3	Purchase from improper source - - - - - 1
Sale during prohibited hours - - - - -	3	Sale to non-members by club - - - - - 1
Beverage Tax Law non-compliance - - - - -	2	Fail. to close prem. during proh. hrs. - - - - - 1
Cases brought by municipalities on own initiative and reported to Division - - - - -		20
Violations involved - - - - -		22
Sale to minors - - - - -	10	Conducting business as a nuisance - - - - - 1
Permitting gambling on premises - - - - -	2	Sale of alc. bev. at service bar (local) - - - - - 1
Sale during prohibited hours - - - - -	2	Hindering investigation - - - - - 1
Sale on Election Day (local reg.) - - - - -	2	Sale during public emergency (local) - - - - - 1
Permitting illegal acty. on prem. - - - - -	1	Fail. to fingerprint corporate members (local reg.) - - - - - 1

HEARINGS HELD AT DIVISION:

Total number of hearings held - - - - -		52
Appeals - - - - -	12	Seizures - - - - - 2
Disciplinary proceedings - - - - -	29	Tax revocations - - - - - 3
Eligibility - - - - -	6	

STATE LICENSES AND PERMITS:

Total number issued - - - - -		1,463
Licenses - - - - -	2	Wine permits - - - - - 17
Solicitors' permits - - - - -	31	Miscellaneous permits - - - - - 404
Employment permits - - - - -	270	Transit insignia - - - - - 253
Disposal permits - - - - -	58	Transit certificates - - - - - 12
Social affair permits - - - - -	421	

OFFICE OF AMUSEMENT GAMES CONTROL:

Licenses issued - - - - -	69
Enforcement files established - - - - -	1

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

DATED: January 12, 1971

4. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM JULY 1, 1970 THROUGH DECEMBER 31, 1970

	1st Quarter		2nd Quarter		Total
	July	Aug., Sept.	Oct., Nov., Dec.		
<b>ARRESTS:</b>					
Total number of persons arrested	41		32		73
Licensees and employees	13		20		33
Bootleggers	28		12		40
<b>SEIZURES:</b>					
Motor vehicles - cars	3		1		4
- trucks	1		-		1
Still - 50 gallons or under	-		2		2
Alcohol - gallons	2.64		45		47.64
Mash - gallons	-		500		500
Distilled alcoholic beverages - gallons	39.988		43.833		83.821
Wine - gallons	79.456		10.250		89.706
Brewed malt alcoholic beverages - gallons	226.502		19.921		246.423
<b>RETAIL LICENSEES:</b>					
Premises inspected	1,463		2,118		3,581
Premises where alcoholic beverages were gauged	1,276		1,702		2,978
Bottles gauged	21,505		28,286		49,791
Premises where violations were found	425		507		932
Violations found	688		756		1,444
Unqualified employees	232		169		401
No Form E-141-A on premises	164		165		329
Form E-141-A incomplete	78		115		193
Application copy not available	51		106		157
Disposal permit necessary	19		21		40
Other mercantile business	13		3		16
Prohibited signs & practices	3		4		7
Improper beer taps	1		1		2
Other violations	127		172		299
<b>STATE LICENSEES:</b>					
Premises inspected	30		22		52
License applications investigated	12		12		24
<b>COMPLAINTS:</b>					
Complaints assigned for investigation	1,190		1,279		2,469
Investigations completed	1,187		1,362		2,549
Investigations pending	(311)		(294)		(294)
<b>LABORATORY:</b>					
Analyses made	235		328		563
Refills from licensed premises - bottles	147		207		354
Bottles from unlicensed premises	34		18		52
<b>IDENTIFICATION:</b>					
Criminal fingerprint identifications made	5		11		16
Persons fingerprinted for non-criminal purposes	1,535		1,148		2,683
Ident. contacts made w/other enforcement agencies	1,018		890		1,908
<b>DISCIPLINARY PROCEEDINGS:</b>					
Cases transmitted to municipalities	13		20		33
Violations involved	16		22		38
Sale during prohibited hours	7		15		22
Sale to minors	8		5		13
Failure to close premises during prohibited hours	1		2		3
Cases instituted at Division	71*		86*		157*
Violations involved	83		101		184
Sale during prohibited hours	15		13		28
Possessing liquor not truly labeled	12		12		24
Sale to minors	11		12		23
Beverage Tax Law non-compliance	-		15		15
Permitting lottery activity on premises	9		5		14
Permitting immoral activity on premises	10		3		13
Hindering investigation	3		4		7
Purchase from improper source	-		5		5
Fraud in application	4		1		5
Permitting misc. gambling on premises	3		2		5
Sol.-Permittee engaging in conduct proh. to employer	-		5		5
Permitting foul language on premises	2		2		4
No Form E-141-A on premises	-		3		3
Sale outside scope of license	1		2		3
Unqualified employees	3		-		3
Permitting hostess activity on premises	1		2		3
Failure to close premises during prohibited hours	1		2		3
Possessing indecent matter	-		2		2
Sale to intoxicated persons	-		2		2
Sales to non-members by club	1		1		2
Fraud and front	1		1		2
Permitting bookmaking and raffle on premises	-		1		1
Permitting lottery and bookmaking on premises	-		1		1
Permitting bookmaking activity on premises	-		1		1
Permitting lottery, bookmaking & cards on premises	1		-		1
Single instance of other violations	4		4		8

\*Includes two cancellation proceedings - licenses improvidently issued since they were the latest renewals for new licenses originally issued in 1966 and 1967

	1st Quarter <u>July Aug., Sept.</u>		2nd Quarter <u>Oct., Nov., Dec.</u>		Total
<b>DISCIPLINARY PROCEEDINGS (CONTINUED)</b>					
Cases brought by municipalities on own initiative and reported to Division	48		46		94
Violations involved	56		55		111
Sale to minors	21		17		38
Conducting business as a nuisance	6		7		13
Permitting gambling on premises	6		6		12
Permitting brawl, etc. on premises	7		4		11
Sale during prohibited hours	3		4		7
Failure to close premises during prohibited hours	3		2		5
Permitting premises to be used for illegal activity	2		3		5
Permitting minors on premises unaccomp. by adult (local reg.)	3		2		5
Hindering investigation	1		2		3
Permitting immoral activities on premises	1		1		2
Unqualified employees	2		-		2
Sale on Election Day (local reg.)	-		2		2
Single instance of other violations	1		5		6
<b>HEARINGS HELD AT DIVISION:</b>					
Total number of hearings held	162		139		301
Appeals	27		25		52
Disciplinary proceedings	94		78		172
Eligibility	36		18		54
Seizures	5		7		12
Tax Revocations	-		11		11
<b>STATE LICENSES AND PERMITS:</b>					
Total number issued	5,726		4,822		10,548
Licenses	585		2		585
Solicitors' permits	153		137		290
Employment permits	1,621		965		2,586
Disposal permits	226		175		401
Social affair permits	1,349		1,372		2,721
Wine permits	87		438		525
Miscellaneous permits	879		1,029		1,908
Transit insignia	474		608		1,082
Transit certificates	354		96		450
<b>OFFICE OF AMUSEMENT GAMES CONTROL:</b>					
Licenses issued	21		71		92
State Fair licenses	130		-		130
Premises inspected	932		-		932
Premises where violations were found	54		-		54
Number of violations found	69		-		69
Enforcement files established	60		45		105

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

Dated: January 15, 1971

5. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary Proceedings against )

MAC & MAC, INC. )  
t/a Mac & Mac )  
809 Grand Avenue )  
Ridgefield, N. J. )

AMENDED  
ORDER

Holder of Plenary Retail Consumption License C-13, issued by the Mayor and Council of the Borough of Ridgefield. )

-----  
Skoloff and Wolfe, Esqs., by Saul A. Wolfe, Esq., Attorneys  
for Licensee  
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

On October 20, 1970 I entered an order herein suspending the license for fifty-five days commencing November 10, 1970, after finding licensee guilty of gambling, viz., permitting the acceptance of numbers bets on the licensed premises. Re Mac & Mac, Inc., Bulletin 1943, Item 4.

Licensee's attorneys, by letter dated October 27, 1970, have requested that the effective dates of suspension be deferred until after January 1, 1971. Good cause appearing, I shall grant the said request.

Accordingly, it is, on this 21st day of December 1970,

ORDERED that Plenary Retail Consumption License C-13, issued by the Mayor and Council of the Borough of Ridgefield to Mac & Mac, Inc., t/a Mac & Mac, for premises 809 Grand Avenue, Ridgefield, be and the same is hereby suspended for fifty-five (55) days, commencing at 3 a.m. Tuesday, January 5, 1971, and terminating at 3 a.m. Monday, March 1, 1971.

RICHARD C. McDONOUGH  
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (INDECENT ENTERTAINMENT) - HOSTESS ACTIVITY - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 70 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

PINE TAVERN, INC. )  
t/a Pine Tavern )  
156 South Olden Avenue )  
Trenton, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-179, issued by the City Council of the City of Trenton. )

-----  
Gerald Patrick Higham, Esq., Attorney for Licensee  
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on March 6-7, 1970 it permitted lewdness and immoral activity (indecent entertainment) on the licensed premises, in violation of Rule 5 of State Regulation No. 20, and (2) on January 23-24 and March 6-7, 1970 it permitted female entertainers to accept drinks at the expense of male patrons, in violation of Rule 22 of State Regulation No. 20.

With respect to the first charge, reports of investigation disclose that a female "go go" dancer, during course of her performance, engaged in bumps, grinds, posturings, gestures and other bodily movements simulating and suggesting sexual intercourse and indecent sexual acts and practices, accentuating these movements and acts by rubbing and fondling her vagina and other parts of her body and inviting male audience participation in her performance by exchange of conversation with the males concerning and with respect to her movements simulating sexual intercourse and indecent sexual acts and practices. The facts of the allegation in the second charge are sufficiently set forth therein.

Licensee has a previous record of suspension of license by the Director for ten days effective December 9, 1969 for possessing alcoholic beverages in bottles not truly labeled. Re Pine Tavern, Inc., Bulletin 1893, Item 10. In addition, a license held by Richard H. Crutchley (a 99.2% stockholder in the licensee corporation) was suspended by the municipal issuing authority for five days effective August 20, 1962 for permitting alcoholic beverage activity on the licensed premises during hours prohibited by local regulation.

The prior record of suspension of license for dissimilar violation in 1962 occurring more than five years ago disregarded, the license will be suspended on the first charge for forty-five days (Re The Village Barn, Inc., Bulletin 1853, Item 5), and on the second charge for twenty days (Re Miller & Miller, Bulletin 1911, Item 3), to which will be added five days by reason of the record of suspension of license for dissimilar violation within the past five years (Re The 331 Broad Ave. Corp., Bulletin 1895, Item 2), or a total of seventy days, with remission of five days for the plea entered, leaving a net suspension of sixty-five days.

Accordingly, it is, on this 21st day of December 1970,

ORDERED that Plenary Retail Consumption License C-179, issued by the City Council of the City of Trenton to Pine Tavern, Inc., t/a Pine Tavern, for premises 156 South Olden Avenue, Trenton, be and the same is hereby suspended for sixty-five (65) days commencing at 2 a.m. Tuesday, January 5, 1971, and terminating at 2 a.m. Thursday, March 11, 1971.

RICHARD C. McDONOUGH  
DIRECTOR

7. STATE LICENSES - NEW APPLICATIONS FILED.

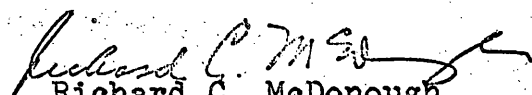
Guild Wine Company  
t/a B. Cribari & Sons, Garrett & Company  
and Roma Wine Company  
Lodi, California  
Application filed February 8, 1971  
for new wine wholesale license.

White Rock Beverage Co. of New Jersey  
t/a Diversified Beverage Distributors  
1800 Highway #35  
Oakhurst, New Jersey  
Application filed February 8, 1971  
for person-to-person and place-to-  
place transfer of State Beverage  
Distributor's License SBD-75 from  
Gillhaus Beverage Co., Inc., North  
Side of Meta Lane, Lodi, New Jersey.

J & J Distributing Co.  
16 Bleeker Street  
Millburn, New Jersey  
Application filed February 19, 1970 for  
place-to-place transfer of Additional  
Warehouse License AW-40 from 430 N.  
Pennsylvania Avenue, Atlantic City, New  
Jersey to 400 Delilah Road, Corner of  
Canale Drive, Egg Harbor Township, New  
Jersey.

Dorchester, Inc.  
30 Bleeker Street  
Millburn, New Jersey  
Application filed February 19, 1971 for  
place-to-place transfer of Additional  
Salesroom License AW-43 from 430 N.  
Pennsylvania Avenue, Atlantic City, New  
Jersey to 400 Delilah Road, Corner of  
Canale Drive, Egg Harbor Township, New  
Jersey.

Theodore Hamm Company  
720 Payne Avenue  
St. Paul, Minnesota  
Application filed February 22, 1971  
for limited wholesale license.

  
Richard C. McDonough  
Director