

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

BULLETIN 1652

January 5, 1966

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1. DISCIPLINARY PROCEEDINGS - HOSTESS ACTIVITY - PRIOR SIMILAR RECORD OF LICENSEE AND PREDECESSOR IN INTEREST - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 120 DAYS.

In the Matter of Disciplinary)
Proceedings against)

1643 Atlantic Avenue Corporation)
t/a Paddock International)
1643 Atlantic Avenue)
Atlantic City, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-199, issued by the Board)
of Commissioners of the City of)
Atlantic City.)
-----)

Licensee, by Anne Levy, President, Pro se
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on August 19-20, 1965, it permitted a female employed on its licensed premises to accept beverages at the expense of a male patron, in violation of Rule 22 of State Regulation No. 20.

Reports of investigation disclose that the female employed as an entertainer on the licensed premises, accepted at the expense of an agent of the Division a number of champagne "cocktails" (consisting of domestic champagne poured over cracked ice in a champagne glass) at a cost of \$2 each and that at the time there was present on the licensed premises, acting in the capacity of manager, one Edward Kravis who, in conversation with the investigating agents after they had identified themselves, stated that he was being "picked on" and that he runs the cleanest place in the city.

Licensee has a previous record of suspension of license by the Director for one hundred fifty days effective May 7, 1963, for permitting indecent entertainment, hostess activity and employment of non-residents without permit. Re 1643 Atlantic Avenue Corporation, Bulletin 1515, Item 2; affirmed on appeal to the Appellate Division in 1643 Atlantic Avenue Corporation v. Division of Alcoholic Beverage Control, 81 N.J. Super. 147, reprinted in Bulletin 1545, Item 1; with balance of suspension (interrupted by the appeal) reimposed effective December 10, 1963. Re 1643 Atlantic Avenue Corporation, Bulletin 1545, Item 2.

In addition, the license of the licensee's predecessor in interest, Paddock International (A Corp.), of which Edward Kravis was then an officer, was suspended by the Director for sixty-five days effective April 23, 1962, for similar entertainment and hostess violations (Re Paddock International, Bulletin 1429, Item 2; Bulletin 1452, Item 4) and previously for forty-five days effective November 28, 1960, again for similar violations, Edward Kravis then being president and a major stockholder of the corporate licensee (Re Paddock International, Bulletin 1372, Item 2).

Furthermore, the license of Edward Kravis, Predecessor in interest of Paddock International (A Corp.), was suspended by the municipal issuing authority for ten days effective December 11, 1939, for permitting indecent entertainment; again for ninety days effective August 27, 1943, on a similar charge; and again for thirty days effective November 25, 1943, for permitting disturbances and unnecessary noise.

The minimum suspension for a first offense involving an aggravated hostess activity violation (which I deem here present) is thirty days. Re Ask, Inc., Bulletin 1641, Item 2. Disregarding the prior record of Edward Kravis individually because occurring more than ten years ago but considering the prior record of suspension of license of the licensee and its predecessor in interest, to whom it is linked by its employment of Edward Kravis as its manager (1643 Atlantic Avenue Corporation v. Division of Alcoholic Beverage Control, supra) of three prior violations similar to that which is the subject of the charge, and the repetitive nature of the violations (fourth similar within five years), as well as the plea entered, under all of the circumstances the license will be suspended for one hundred twenty days. Cf. Re Garrabrant, Bulletin 1420, Item 4; Re Elcor, Inc., Bulletin 1515, Item 1, both indicating a quadrupling of penalty for a fourth similar offense within five years.

In addition, the licensee is admonished that future similar violation may well result in outright revocation of the license.

Accordingly, it is, on this 22nd day of November, 1965,

ORDERED that Plenary Retail Consumption License C-199, issued by the Board of Commissioners of the City of Atlantic City to 1643 Atlantic Avenue Corporation, t/a Paddock International, for premises 1643 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for one hundred twenty (120) days, commencing at 7 a.m. Monday, November 29, 1965, and terminating at 7 a.m. Tuesday, March 29, 1966.

JOSEPH P. LORDI,
DIRECTOR

APPELLATE DECISIONS - H. & W. LIQUORS INC. v. WAYNE.

H. & W. Liquors Inc.,)
 t/a H. & W. Liquors Inc.,)
 Appellant,)
 v.)
 Municipal Council of the)
 Township of Wayne,)
 Respondent.)

On Appeal
 CONCLUSIONS
 and
 ORDER

 George J. Sokalski, Esq., Attorney for Appellant.
 Peter J. Van Norde, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This is an appeal from the denial of an application for a place-to-place transfer of appellant's plenary retail distribution license D-5 for the 1964-65 licensing year from 514 Route 46 to premises to be constructed on Lot No. 3, Block 573, easterly side of Route 23, Township of Wayne.

Appellant alleges in its petition of appeal that the action of respondent was erroneous and should be reversed for the following reasons:

"4. The Appellant did comply with all the requirements of the municipal ordinances pertaining to a transfer of a plenary retail distribution license No. D5. The reasons for the denial were reasons that would have applied to the original licensee if there had been limitations connected with and binding upon said license which was not done. There is only one other D package license located in the area as set forth in the reasons for denial and this present license in no way would create an over-concentration of D licenses. The Appellant also brought forth the fact that it is operating under a lease which will compel a transfer from its present location to another location somewhere in the Township of Wayne and said Appellant, at the present time, is unable to locate any other location which does not conflict with the local ordinances. The Appellant, at the time of the hearing will produce said lease for the perusal by the Director."

Respondent's answer contends that respondent acted in its sound discretion in denying transfer of the license in question.

Helen Wenting, an officer of appellant, testified that when appellant obtained the license in question for its present premises, it became a month-to-month tenant with the proviso that it must vacate on October 31, 1965. Thereafter, being aware that appellant would be compelled to move, appellant retained two realtors to find a new location.

Samuel Hoitsma, also an officer of appellant, testified that immediately after acquiring the license, two realtors were retained for the purpose of searching for a new location. On cross examination Mr. Hoitsma stated: "We don't have any arrangement. We could have moved out of there within the first month if we had the location. He's anxious to occupy that store. That was the reason for us to have that year lease." Furthermore, when asked whether the owner of the premises, "would extend a building for you if you were to remain in that area", he answered, "Well, we haven't made any kind of arrangements with that and I don't think we could probably -- it wouldn't be too wise a move to be in that location." Moreover, there was no offer or discussion with reference to same.

William J. Wallace testified that he is a realtor and since October 30, 1964, attempted to find a new location for the liquor license; that two other locations were found but both did not meet the requirements of the local footage ordinance in the municipality. With reference to other licensed premises, Mr. Wallace further testified that the nearest liquor establishments on Route 23 included a plenary retail consumption license approximately 1517 feet from the proposed site, another of the same class of license 1630 feet distant, a plenary retail distribution license in Packanack Shopping Center over 2000 feet from the location "on the same side of Route 23."

Jacob J. DeOld, also a realtor, testified that he tried to secure a new location for transfer of the license but that the site for which the transfer was denied is the only one available in the municipality at this point.

Ronald Sherwood, president of respondent Municipal Council, testified that for the best interest of the municipality, the license in question was granted to the prior holder thereof in 1961 because the location was considered to be favorable for a license as it did not cause licenses to be concentrated in a particular area. Councilman Sherwood further testified that at the hearing before respondent in October 1964, when the license was acquired, appellant knew it would have to move either to an adjacent piece of property or to some other place in the township. Furthermore, he testified that one of the main reasons he voted to deny the transfer was because the proposed location area is where the "licenses are already primarily situated."

The burden of establishing that the action of respondent issuing authority was erroneous and should be reversed rests with appellant. Rule 6 of State Regulation No. 15. No one has a right to the issuance or transfer of a license to sell alcoholic beverages. Zicherman v. Driscoll, 133 N.J.L. 586; Biscamp v. Teaneck, 5 N.J. Super. 172 (App. Div. 1949).

Whether or not a license should be transferred to a particular section of a municipality rests in the sound discretion of the local issuing authority in the first instance. Hudson Bergen County Retail Liquor Stores Ass'n v. North Bergen et al., Bulletin 997, Item 2. Each municipal issuing authority has wide discretion with reference to a transfer of a liquor license which, however, is subject to review by the Director in event of abuse of its authority. Passarella v. Atlantic City et al., 1 N.J. Super. 313. Its action will not be disturbed in the absence of a clear abuse of discretion. Blanck v. Magnolia, 38 N.J. 484.

The Director's function on appeals of the kind now under consideration is not to substitute his personal opinion for that of the issuing authority, but merely to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of his personal views. Larijon, Inc. v. Atlantic City, Bulletin 1306, Item 1; Bertrip Liquors, Inc. v. Bloomfield, Bulletin 1334, Item 1.

In Fanwood v. Rocco, 59 N.J. Super. 306, 323 (App. Div. 1960), aff'd 33 N. J. 404 (1960), Judge Gaukin, among other things, stated:

"The Director may not compel a municipality to transfer licensed premises to an area in which the municipality does not want them, because there more people would be able to buy liquor more easily. Such 'convenience' may in a proper case be a reason for a municipality's granting a transfer but it is rarely, if ever, a valid basis upon which the Director may compel the municipality to do so."

Moreover, it was stated in Fanwood that "No person is, as a matter of law, entitled to transfer of liquor license", and "If the motive of the governing body is pure, its reasons, whether based on morals, economics or aesthetics are immaterial."

If the site for which the transfer of license is sought is in the same area as its present location, the reasonableness of the action of respondent in denying the transfer might be questionable. However, in view of the fact that the distance between the present premises and the proposed location for the new premises is approximately two miles, the proposed premises may be properly considered to be situated in a different section of the municipality.

I might add that a month-to-month tenancy agreement between appellant corporate licensee and Robie's, Inc. (the landlord for the present premises), signed by officers of the respective corporations, was marked as an exhibit herein, which purported to end tenancy on October 31, 1965. However, Samuel Hoitsma, president of appellant, testified that although there was no discussion with the landlord concerning a premises to be constructed for appellant, he (Hoitsma) was of the opinion that it would not be wise to remain at the present location.

This case can be distinguished from Common Council of Hightstown v. Hedy's Bar, 86 N.J. Super. 561, which affirmed the action of the Director in his reversal of the denial of an application for a place-to-place transfer by the local issuing authority. Hedy's Bar v. Hightstown, Bulletin 1561, Item 2. Judge Goldmann, speaking for the Appellate Division of the New Jersey Superior Court, found that the licensee "was forced to relocate by a public agency, the Hightstown Housing Authority, which took possession of the premises on August 1, 1963, when the tavern was obliged to cease operations." In the instant case, it is apparent from the testimony of Mr. Hoitsma that appellant is desirous of transferring the license from the area where it is presently located and thus no negotiations were initiated by appellant with Robie's, Inc. for new accommodations.

After consideration of all the evidence herein, I conclude that the action of respondent in denying the transfer in question was neither unreasonable nor an abuse of discretion.

Therefore, it is recommended that the said action of respondent in denying the transfer of appellant's license be affirmed and that the appeal 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, including the transcript of testimony, the exhibits, and the Hearer's report, I concur in the conclusions and recommendation of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 12th day of November 1965,

ORDERED that the action of respondent in denying transfer of appellant's license be and the same is hereby affirmed, and that the appeal herein is hereby dismissed.

JOSEPH P. LORDI,
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - IMMORAL ACTIVITY (INDECENT ENTERTAINMENT) - HOSTESS ACTIVITY - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
Stumble Inn, Inc.
t/a Club Domino
169 Westminster Place
Lodi, N. J.,
Holder of Plenary Retail Consumption License C-7, issued by the Mayor and Council of the Borough of Lodi

CONCLUSIONS
and
ORDER

Licensee, by Dominick DiChiara, President, Pro se
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to charges alleging that on September 15, 1965, it (1) permitted a female entertainer to perform in a lewd, indecent and immoral manner, in violation of Rule 5 of State Regulation No. 20, (2) permitted a female entertainer to accept drinks at the expense of male patrons, in violation of Rule 22 of State Regulation No. 20, and (3) in its current application for license, failed to disclose its prior suspension of license, in violation of R.S. 33:1-25.

Reports of investigation disclose that, with respect to the first charge, a female entertainer wearing a two-piece bikini-type outfit with fringe, after performing on the bandstand, moved to the top of the bar dancing her way around the length of the bar stopping before male patrons and performing "bumps and grinds" and engaging in suggestive gestures.

Licensee has a previous record of suspension of license by the Director for twenty days effective May 12, 1964, for possession of alcoholic beverages in bottles not truly labeled, the subject of the third charge herein, Re Stumble Inn, Inc., Bulletin 1565, Item 7.

The license will be suspended on the first charge for thirty days (cf. Re McLoughlin & Stock, Inc., Bulletin 1611, Item 5), on the second charge for twenty days (Re Club Rio, Bulletin 1594, Item 3), and on the third charge for ten days (Re Marinello,

Bulletin 1643, Item 4); to which will be added five days by reason of the record of suspension of license for prior dissimilar violation occurring within the past five years (Re Triple T. Inc., Bulletin 1639, Item 2), or a total of sixty-five days, with remission of five days for the plea entered, leaving a net suspension of sixty days.

Accordingly, it is, on this 15th day of November, 1965,

ORDERED that Plenary Retail Consumption License C-7, issued by the Mayor and Council of the Borough of Lodi to Stumple Inn, Inc., t/a Club Domino, for premises 169 Westminster Place, Lodi, be and the same is hereby suspended for sixty (60) days, commencing at 3 a.m. Monday, November 22, 1965, and terminating at 3 a.m. Friday, January 21, 1966.

JOSEPH P. LORDI,
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
Silvio A. Cinaglia
t/a Pete's Cafe
1102 So. 4th Street
Camden, N. J.

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-125, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden
-----)

T. V. DiMartino, Esq., by Leonard A. Cinaglia, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on October 28, 1965, he sold a pint bottle of wine for off-premises consumption during hours prohibited by Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the Director for ten days effective August 20, 1962, for similar violation. Re Cinaglia, Bulletin 1476, Item 9.

The prior record of suspension of license for similar violation occurring within the past five years considered, the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Gazi, Bulletin 1636, Item 8.

Accordingly, it is, on this 15th day of November, 1965,

ORDERED that Plenary Retail Consumption License C-125, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Silvio A. Cinaglia, t/a Pete's Cafe, for premises 1102 So. 4th Street, Camden, be and the same is hereby suspended for twenty-five (25) days, commencing at 7:00 a.m. Monday, November 22, 1965, and terminating at 7:00 a.m. Friday, December 17, 1965.

JOSEPH P. LORDI,

5. DISCIPLINARY PROCEEDINGS - SALE TO NON-MEMBER - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 John Johnson Lodge #587)
 I.B.P.O.E. of W.,)
 Victor and Grant Avenues)
 Eatontown, PO Box 31, N. J.,)
)
 Holder of Club License CB-1,)
 issued by the Borough Council of)
 the Borough of Eatontown.)

CONCLUSIONS
and
ORDER

Licensee, by Lewis Riley, Exalted Ruler, Pro se
Morton B. Zemel, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to charges alleging that (1) on September 12, 1965, it sold drinks of alcoholic beverages to a non-member, in violation of Rule 8 of State Regulation No. 7, and (2) in its current application, failed fully to disclose its record of prior license suspensions, in violation of R.S. 33:1-25.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective February 13, 1950, and for fifteen days effective April 20, 1959, both for sale to non-members, non-disclosure of the latter suspension being the subject of the second charge.

The prior record of suspension of license for similar violation occurring in 1950, more than ten years ago, disregarded for penalty purposes but the prior record of suspension of license for similar violation occurring in 1959, more than five but less than ten years ago considered, the license will be suspended on the first charge for twenty days (Re Twelve Aces Social Club, Bulletin 1481, Item 9), and on the second charge for ten days (Re Marinello, Bulletin 1643, Item 4), or a total of thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 15th day of November, 1965,

ORDERED that Club License CB-1, issued by the Borough Council of the Borough of Eatontown to John Johnson Lodge #587 I.B.P.O.E. of W., for premises Victor and Grant Avenues, Eatontown, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, November 22, 1965, and terminating at 2 a.m. Friday, December 17, 1965.

JOSEPH P. LORDI,
DIRECTOR

5. DISQUALIFICATION REMOVAL PROCEEDINGS - POSSESSION OF NUMBERS SLIPS - PRIOR DISCIPLINARY RECORD AS LICENSEE - PETITION DENIED.

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

CONCLUSIONS)
and)
ORDER)

Case No. 1931)
-----)

Carl H. Auerbach, Esq., Attorney for Petitioner

BY THE DIRECTOR:

Petitioner's criminal record discloses that on April 13, 1949, following a conviction in the Camden County Court for possession of number slips in violation of R.S. 2:147-3, he was sentenced to serve one to two years in New Jersey State Prison (suspended) and fined \$300. It further appears that in 1935 petitioner was sentenced in a local magistrate's court to serve sixty days in the Camden County jail for violating the State alcoholic beverage law arising from the possession of a still (not in operation); that on October 10, 1954 he was arrested on two charges of atrocious assault and battery; the charges were "no billed." It further appears that on January 22, 1963, local police armed with a search warrant raided petitioner's home, found evidence of gambling paraphernalia and arrested petitioner and his wife; that he and his wife were indicted as co-defendants for violations of the lottery statute; that his wife was convicted, and that on January 29, 1964 the indictment as to the petitioner was dismissed on the court's own motion.

Since the crime of which petitioner was convicted in 1949 involves the element of moral turpitude (Re Elig. #735, Bulletin 1596, Item 8), he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

In view of this it is unnecessary to determine whether or not petitioner's other conviction in 1935 involved that element.

At the hearing held herein, petitioner (54 years old) testified that he is married and living with his wife and son; that for the past forty-five years he has lived in the same area where he presently resides; that since September 1963 he and his wife have operated a confectionery store; that between 1941 and September 1963 he was engaged in the retail liquor industry in this State in various capacities (bartender, officer and stockholder of a corporate licensee, and partner in a licensed business); that subsequent to his conviction in 1949 he disclosed his lottery conviction in each application for a municipal license; that his conviction in 1935 was in a local magistrate's court; that he did not list this conviction in his applications because he did not believe it constituted a conviction of a crime; that until recently, when advised by his attorney, he was unaware of his ineligibility to be engaged in the alcoholic beverage industry in this State.

Petitioner further testified that he has disassociated himself from all gambling activities; that he is asking for the removal of his disqualification to be free to engage in the alcoholic beverage industry in this State and that, ever since his conviction on April 13, 1949, he has not been convicted of any crime..

The Police Department of the municipality wherein the petitioner resides reports that there are no complaints or investigations presently pending against the petitioner.

Petitioner produced three character witnesses (a letter-carrier, a retired railroad employee and an assistant supervisor of a hospital) who testified that they have known the petitioner for more than five years last past and that, in their opinion, he is now an honest, law-abiding person with a good reputation.

The records of this Division disclose that effective May 3, 1960, the license of Franire, Inc., in which the petitioner was a five per cent. shareholder, was suspended by the then Director for twenty days for an "hours" violation and for hindering an investigation; that petitioner was one of two bartenders on duty when the violations occurred, and that petitioner personally hindered the investigation, a most serious violation which threatens the entire enforcement structure (Re Franire, Inc., Bulletin 1341, Item 5); that in 1944, when petitioner held a license in partnership with John Walley, such license was suspended for three days effective May 9, 1944, by this Division, for sale of alcoholic beverages to woman over a bar (Re Robinson & Walley, Bulletin 618, Item 5); that effective July 20, 1953, the license of Eff-R-Sea, Inc., t/a Knotty Pine Cafe, operated by petitioner, his wife and sister, was suspended by the local municipal authority for six days for lottery activity.

The records of this Division further disclose that between May 1957 and June 1960 a Mrs. --- (a sister of petitioner) was the holder of forty-five shares or forty-five per cent. of the stock of the aforementioned Franire, Inc., but that she was not the real and beneficial owner of the same, and that by reason thereof petitioner participated in a "front" situation whereby false answers were made by the licensee in its license application.

It further appears that, following an investigation by this Division, the petitioner, his sister and wife (the holder of fifty per cent. of the stock) divested themselves of all the corporate stock of said licensee in the latter part of 1960.

To afford petitioner the relief requested it is necessary that I find that he has been conducting himself in a law-abiding manner for five years last past and that his association with the alcoholic beverage industry will not be contrary to the public interest. See R.S. 33:1-31.2.

While more than five years have elapsed since his conviction in 1949, I am not satisfied by reason of petitioner's criminal record (including the circumstances under which he was arrested in 1963) and his apparent disregard for the alcoholic beverage law of this State (hindering an investigation) and the rules and regulations of this Division, that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 16th day of November, 1965,

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

JOSEPH P. LORDI,
DIRECTOR

7. MORAL TURPITUDE - CONVICTION OF WILLFUL FAILURE TO FILE INCOME TAX RETURNS HELD TO INVOLVE MORAL TURPITUDE.

RE: Eligibility No. 746

Applicant seeks an advisory opinion as to whether or not he is eligible to be associated with the alcoholic beverage industry in this State in view of a conviction of a crime.

On January 19, 1963 the United States Attorney for the District of New Jersey filed a criminal information in two counts against the applicant alleging that in 1958 and 1959 he had gross incomes of \$11,800 and \$24,316.70, respectively, and that he willfully and knowingly failed to file his income tax returns for said years, in violation of Section 7203, Internal Revenue Code; 26 U.S.C., Sec. 7203.

On January 19, 1965, following a verdict of guilty by a jury, applicant was sentenced to serve concurrent sentences of one year. A conviction of the crime of failure to file income tax returns in violation of the aforesaid section may or may not involve the element of moral turpitude. Re Case No. 1794. Since the instant case included the element of willfulness, it is my opinion that the aforesaid convictions involve the element of moral turpitude. Re Case No. 1794, supra. See also In re Depuy, 10 N.J. 282 (1952) wherein the Supreme Court disbarred an attorney for knowingly and willfully failing to file income tax returns.

In a memorandum filed by the applicant's attorney he admits that "the cases are too numerous to mention wherein it has been held that a crime involving intent or willfulness is one involving moral turpitude." Applicant nevertheless contends that it is the duty of the Director in this particular case to go beyond the record (charge, conviction and sentence) in deciding whether the aforesaid convictions involve moral turpitude, citing in support thereof, State Board of Medical Examiners v. Weiner, 68 N.J. Super. 468 (1961). An examination of this case discloses that this question was left open by the court.

Applicant further contends that the court committed error in its charge to the jury and, by reason thereof, requests that the same be considered in determining whether his convictions involve moral turpitude. This case is now on appeal, and one of the arguments raised therein is the judge's charge. Whether or not the judge committed error is for the courts to decide.

Under the circumstances I recommend that applicant be advised that (1) in the opinion of the Director, the crime in question involves moral turpitude; (2) the Alcoholic Beverage Law of this State (R.S. 33:1-25) provides that no license of any class shall be issued to a person convicted of a crime involving moral turpitude, and (3) R.S. 33:1-26 and Rule 1 of State Regulation No. 13 provide that no licensee shall employ or have connected with him, in any business capacity whatsoever, a person so disqualified.

I. Edward Amada,
Attorney.

Approved:

(sd) Joseph P. Lordi

JOSEPH P. LORDI,
DIRECTOR

Dated: November 17, 1965

8. DISCIPLINARY PROCEEDINGS.- SALE TO INTOXICATED PERSON - PRIOR DIS-SIMILAR RECORD OF LICENSEE AND CORPORATION IN WHICH LICENSEE WAS STOCKHOLDER - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Matteo Valenti t/a Marty's AA Bar & Grill 500 Washington Avenue South Amboy, N. J.

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-34, issued by the Common Council of the City of South Amboy.

Joseph T. Karcher, Esq., Attorney for Licensee. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on September 11, 1965, he sold mixed drinks of alcoholic beverages to an intoxicated person, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority (1) for ten days effective March 18, 1946, and (2) for thirty days effective October 1, 1957, both for sale to minors; by the Director (3) for forty days effective August 3, 1959, for farming out the license and possession of indecent matter (Re Valenti, Bulletin 1294, Item 1); and by the municipal issuing authority (4) for fifteen days effective August 7, 1961, for permitting a brawl on the licensed premises. In addition, the license of Woodland Grove, Inc. (of which Matteo Valenti was president and principal stockholder) for premises Jernee Mill Road, Sayreville, was suspended by the municipal issuing authority (5) for three days effective January 26, 1960, for permitting a brawl on the licensed premises; by the Director (6) for forty-five days effective June 19, 1961, for sale to minors and false statement in the license application (Re Woodland Grove, Inc., Bulletin 1401, Item 3); by the municipal issuing authority (7) for thirty-five days effective November 11, 1963, for sale to minors; and by the Director (8) for forty days effective June 2, 1965, for sale to minors (Re Woodland Grove, Inc., Bulletin 1625, Item 4).

The previous record of suspensions of license in 1946 through 1960 for dissimilar violations will be disregarded because occurring more than five years ago. Hence, the license will be suspended for twenty days (Re Ed's Tavern, Bulletin 1627, Item 9), to which will be added twenty days by reason of the licensee's record of suspension of license for dissimilar violation occurring in 1961 and the record of suspensions of license of Woodland Grove, Inc. (Re Tarlowe, Bulletin 1580, Item 6) for dissimilar violations occurring in 1961, 1963 and 1965, totaling four suspensions for dissimilar violations occurring within the past five years (cf. Re Hala Corporation, Bulletin 1525, Item 4; Re The Count Cafe, Bulletin 1643, Item 3), or a total of forty days, with remission of five days for the plea entered, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 15th day of November, 1965,

ORDERED that Plenary Retail Consumption License C-34, issued by the Common Council of the City of South Amboy to Matteo Valenti, t/a Marty's AA Bar & Grill, for premises 500 Washington Avenue, South Amboy, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. Wednesday, November 17, 1965, and terminating at 2:00 a.m. Wednesday, December 22, 1965.

JOSEPH P. LORDI,
DIRECTOR

DISCIPLINARY PROCEEDINGS - SALE OF DRINKS FOR OFF-PREMISES CONSUMPTION - LICENSE SUSPENDED FOR 5 DAYS, LESS 2 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Anna M. Jerome)
t/a Jerome Tavern)
109 South Broadway)
South Amboy, N. J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-28, issued by the Mayor and Common Council of the City of South Amboy.)
-----)

Licensee, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on July 30, 1965, she sold a mixed drink of an alcoholic beverage in a cardboard container for consumption off the licensed premises, in violation of R.S. 33:1-2.

Absent prior record, the license will be suspended for five days, with remission of two days for the plea entered, leaving a net suspension of three days. Re DeWald, Bulletin 1533, Item II.

Accordingly, it is, on this 15th day of November, 1965,

ORDERED that Plenary Retail Consumption License C-28, issued by the Mayor and Common Council of the City of South Amboy to Anna M. Jerome, t/a Jerome Tavern, for premises 109 South Broadway, South Amboy, be and the same is hereby suspended for three (3) days, commencing at 2:00 a.m. Monday, November 22, 1965, and terminating at 2:00 a.m. Thursday, November 25, 1965.

JOSEPH P. LORDI,
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - PERMITTING MINOR TO SELL ALCOHOLIC BEVERAGES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

DISCIPLINARY PROCEEDINGS - MINOR PERMITTEE SELLING ALCOHOLIC BEVERAGES - PERMIT SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Salvatore & Lillian Baldanza and Vito & Lucille Pino) t/a Lill's Del. & Liquor) 234-A Market Street) East Paterson, N. J.)

Holder of Plenary Retail Distribution License D-1, issued by the Borough Council of the Borough of East Paterson)

and)

Monica Gere) 38 Hillman Drive) East Paterson, N. J.)

Holder of Limited Employment Permit No. 758, issued by the Director of the Division of Alcoholic Beverage Control)

CONCLUSIONS and ORDER

Grabow, Verp & Rosenfelt, Esqs., by George S. Grabow, Esq., Attorneys for Licensees and Permittee. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on September 29, 1965, they permitted Monica Gere, a minor employee, to sell a 6-pack of beer, in violation of Rule 2 of State Regulation No. 13.

Permittee, age 17, pleads non vult to a charge alleging that on September 29, 1965, she sold a 6-pack of beer in contravention of the condition of her employment permit prohibiting her sale of alcoholic beverages, in violation of R.S. 33:1-26.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days; and the permit will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Bella-Samsons Liquors--Gershenbaum, Bulletin 1505, Item 2.

Accordingly, it is, on this 29th day of November, 1965,

ORDERED that Plenary Retail Distribution License D-1, issued by the Borough Council of the Borough of East Paterson to Salvatore and Lillian Baldanza and Vito and Lucille Pino, t/a Lill's Del. & Liquor, for premises 234-A Market Street, East Paterson, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. Monday, December 6, 1965, and terminating at 9:00 a.m. Saturday, December 11, 1965; and it is further

ORDERED that Limited Employment Permit No. 758, issued by the Director of the Division of Alcoholic Beverage Control to Monica Gere, for the fiscal year 1965-66, be and the same is hereby suspended for twenty-five (25) days, commencing at 9:00 a.m. Monday, December 6, 1965, and terminating at 9:00 a.m. Friday, December 31, 1965.

JOSEPH P. LORDI,
DIRECTOR

DISQUALIFICATION REMOVAL PROCEEDINGS - POSSESSION OF POLICY NUMBERS - ORDER REMOVING DISQUALIFICATION.

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

CONCLUSIONS
and
ORDER

Case No. 1965)
-----)

BY THE DIRECTOR:

Petitioner's criminal record discloses that on September 4, 1942, he was convicted in the Special Sessions Court of New York for possession of policy "numbers", as a result thereof was fined \$50. Petitioner admits that, at the time of his arrest resulting in aforesaid conviction, he was employed as a grocery clerk and in connection therewith accepted policy "numbers" bets for his employer.

Since the crime of which petitioner was convicted involves the element of moral turpitude (Re Elig. #726, Bulletin 1558, Item 3), he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

At the hearing held herein, petitioner (50 years old) testified that he is married and living with his wife and three children; that for the past five years he has lived at his present address, and that he has been employed as a manager of food markets for eight years.

Petitioner further testified that he is asking for the removal of his disqualification to be free to engage in the alcoholic beverage industry in this State and that, ever since his conviction in 1942, he has not been convicted of any crime, or arrested.

The Police Department of the municipality wherein the petitioner resides reports that there are no complaints or investigations presently pending against petitioner.

Petitioner produced three character witnesses (an operator of a food market, a security guard, and a grocery clerk) who testified that they have known petitioner for more than five years last past and that, in their opinion, he is now an honest, law-abiding person with a good reputation.

Considering all of the aforesaid facts and circumstances, I am satisfied that petitioner has conducted himself in a law-abiding manner for five years last past, and that his association with the alcoholic beverage industry in this State will not be contrary to the public interest.

Accordingly, it is, on this 2nd day of December, 1965

ORDERED that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby removed, in accordance with the provisions of R.S. 33:1-31.2.

JOSEPH P. LORDI,
DIRECTOR

12. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto.Susp.#269)
In the Matter of a Petition to Lift)
the Automatic Suspension of Plenary)
Retail Consumption License C-154,)
issued by the Board of Alcoholic)
Beverage Control for the City of)
Paterson to)

Harold Sandford & Norma Sandford)
t/a Club Norma)
331 Straight Street)
Paterson, N. J.)
-----)

On Petition

O R D E R

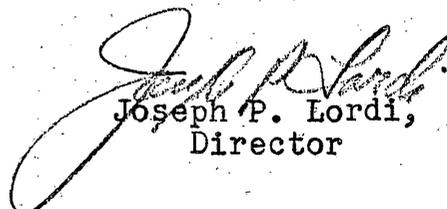
BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division that on November 8, 1965, Harold Sandford, one of the petitioners, was fined \$50 and \$5 costs in the Paterson Municipal Court after being found guilty of a charge of sale of alcoholic beverages to minors on October 22, 1965, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of the license for the balance of its term. R.S. 33:1-31.1. The suspension has not been effectuated because of the pendency of this proceeding.

It further appears that the municipal issuing authority has suspended the license for fifteen days effective 3:00 a.m. on November 18, 1965, after confessional plea to a charge in disciplinary proceedings alleging the same sales to the minors. Hence, I shall lift the automatic suspension in anticipation of the service of the currently effective municipal suspension. Re Kassner, Bulletin 1596, Item 5.

Accordingly, it is, on this 23d day of November, 1965,

ORDERED that the statutory automatic suspension of said license C-154 be and the same is hereby lifted, effective at 3:00 a.m. Friday, December 3, 1965.


Joseph P. Lordi,
Director