

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

September 9, 1965.

BULLETIN 1633

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - FRANKEL WINE & LIQUOR CORPORATION  
 v. EAST ORANGE AND TAVARES & PICA.  
 APPELLATE DECISIONS - FEDERATION OF EAST ORANGE NEIGHBOR-  
 HOOD ASSOCIATIONS ET AL. v EAST ORANGE AND TAVARES &  
 PICA.  
 O'DONNELL AND MAC ART v. EAST ORANGE AND TAVARES & PICA.
2. DISCIPLINARY PROCEEDINGS (Passaic) - SALE IN VIOLATION  
 OF STATE REGULATION NO. 38 - SALE TO MINORS - LICENSE  
 SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
3. DISCIPLINARY PROCEEDINGS (Cherry Hill) - ORDER REIMPOSING  
 SUSPENSION AFTER DISMISSAL OF APPEAL TO APPELLATE DIVISION.
4. DISCIPLINARY PROCEEDINGS (Perth Amboy) - ALCOHOLIC  
 BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR  
 25 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Edison Twp.) ALCOHOLIC BEVERAGES  
 NOT TRULY LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS  
 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE IN  
 VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR  
 RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Carteret) - ALCOHOLIC BEVERAGES  
 NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS  
 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE IN  
 VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED  
 FOR 15 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE IN  
 VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED  
 FOR 20 DAYS, LESS 5 FOR PLEA.

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

September 9, 1965.

BULLETIN 1633

1. APPELLATE DECISIONS - FRANKEL WINE & LIQUOR CORPORATION  
v. EAST ORANGE AND TAVARES & PICA.  
APPELLATE DECISIONS - FEDERATION OF EAST ORANGE NEIGHBORHOOD  
ASSOCIATIONS ET AL. v. EAST ORANGE AND TAVARES & PICA.  
O'DONNELL AND MAC ART v. EAST ORANGE AND TAVARES & PICA

Frankel Wine & Liquor Corporation, )

Appellant, )

v. )

Municipal Board of Alcoholic )  
Beverage Control of the City of )  
East Orange, and Joseph M. )  
Tavares & Matthew M. Pica, t/a )  
Gold Rose Wines & Liquors, )

Respondents. )

----- )

Federation of East Orange Neigh- )  
borhood Associations, et al., )

Appellants, )

v. )

Municipal Board of Alcoholic )  
Beverage Control of the City of )  
East Orange, and Joseph M. )  
Tavares & Matthew M. Pica, t/a )  
Gold Rose Wines & Liquors, )

Respondents. )

----- )

Louis O'Donnell and Donald )  
MacArt, )

Appellants, )

v. )

Municipal Board of Alcoholic )  
Beverage Control of the City of )  
East Orange, and Joseph M. )  
Tavares & Matthew M. Pica, t/a )  
Gold Rose Wines & Liquors, )

Respondents. )

----- )

Arthur M. Karl, Esq. Attorney for Appellant Frankel Wine etc.  
Julius Fielo, Esq., Attorney for Appellants Federation of East  
Orange Neighborhood Associations, et al.  
Thomas E. Durkin, Jr., Esq. Attorney for Appellants O'Donnell  
and MacArt  
William L. Brach, Esq., by Jack Okin, Esq., Attorney for  
Respondent Municipal Board  
Frank P. Marano, Esq., Attorney for Respondents Tavares and Pica.

On Appeal

CONCLUSIONS and ORDER

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

The above captioned appeals, consolidated for hearing and determination, are from the unanimous action of the respondent Board in granting on November 23, 1964 a place-to-place transfer of respondent-licensees' plenary retail distribution license from premises 48 South Harrison Street to premises 392 William Street, East Orange.

The resolution of respondent Board in approving the transfer in question reads as follows:

"WHEREAS, Joseph M. Tavares and Matthew A. Pica T/A Gold Rose Wines & Liquors filed an application on October 20, 1964 for permission to transfer their plenary retail distribution license #D-6 from premises 48 South Harrison Street, East Orange, New Jersey to 392 William Street, East Orange, New Jersey, and

"WHEREAS said applicants have complied with the requirements of Chapter 3 of the 'Compiled and Revised Ordinances of The City of East Orange (Revision of 1947)' as amended in the submission of said application, and

"WHEREAS the Municipal Board of Alcoholic Beverage Control of The City of East Orange did on November 10, 1964 conduct a full and impartial public hearing after written objections to said transfer had been received from Edward Stanton, Esq., Attorney for Board of Education of East Orange; Graham M. Skea, Board of Recreation Commissioners, The City of East Orange; Grace and Everett Phillips, 83 North Walnut Street, East Orange; Kenneth Rystrom, Secretary, Protestant Church Council of East Orange; Arthur M. Karl, Esq. for Frankel Wine & Liquor, East Orange and Grand Liquors, East Orange and Harry Krieger, 103 North Walnut Street, East Orange, and

"WHEREAS, the Board heard and considered all the testimony offered by proponents and objectors in connection therewith, and

"WHEREAS the transfer of said plenary retail distribution license will constitute a transfer to different premises within 1,250 feet of other licensed establishments, and

"WHEREAS the Municipal Board has the authority and power to waive the application of said 1,250 feet restriction in proper cases, it is on this 23rd day of November 1964,

"RESOLVED that the Board does hereby find as fact that:

"After a review of the location and availability of other licensed establishments to persons living in and utilizing the facilities located in and around the proposed location and after having considered the general neighborhood characteristics and boundaries, it is determined that the transfer of this license #D-6 from premises at 48 South Harrison Street to 392 William Street will not result in undue crowding and concentration of licensed establishments and this Board does further find that this transfer, in permitting an additional licensee in an area which is densely populated, will render a convenience and service to an extent not otherwise available to persons in the area of the proposed location; and

"This Board does further find that the transfer of said license to 392 William Street will be consonant with and an asset to the neighborhood in which it will be located and therefore and based upon the foregoing facts,

"IT IS RESOLVED that the 1,250 feet requirement, as provided for in Ordinance #31 of 1962, be and the same is hereby waived, and it is further

"RESOLVED, that this Municipal Board of Alcoholic Beverage Control of The City of East Orange, New Jersey does hereby approve of the transfer of Plenary Retail Distribution License #D-6 from 48 South Harrison Street, East Orange to 392 William Street, East Orange."

The petitions of appeal in substance allege that (a) on September 29, 1964, a former application for a transfer to the proposed premises was dismissed without prejudice by the respondent Board and thus respondent had two applications pending before it; (b) there was insufficient evidence presented to grant a transfer; (c) the respondent Board's action was unreasonable, capricious, arbitrary and an abuse of discretion; (d) the existence of the business at the proposed premises would create a parking and traffic hazard; (e) the premises in question is located within 1,250 feet of another liquor outlet and, therefore, the grant of the transfer was illegal because it was made in violation of a local ordinance, and (f) the reasons advanced by objectors were ignored.

The answers in substance deny the allegations in the petitions of appeal and contend that the respondent Board Exercised its sound discretion in approving the transfer of the license.

The pertinent section of Ordinance #31, as adopted by the City Council October 22, 1962, and approved by the Mayor October 23, 1962, in effect at the time of granting the transfer, read as follows:

"Sec. 4 (b) No plenary retail distribution license or retail consumption license shall be issued nor shall any plenary retail distribution license or plenary retail consumption license be transferred to different premises within 1,250 feet of any other licensed establishment as aforesaid, provided, however, nothing herein shall prevent renewals or transfers to another licensee of licenses heretofore issued for use on the same premises on which the license is presently in operation. Notwithstanding the foregoing provision, the Municipal Board of Alcoholic Beverage Control of this City may, after hearing and upon review of the location and availability of other licensed establishments to persons living in and utilizing the facilities located in and around the proposed location and of general neighborhood characteristics and boundaries, determine that approval of the transfer shall not result in an undue crowding and concentration of licensed establishments, shall render a convenience and service to an extent not otherwise available to persons in the area of the proposed location and shall be consonant with and an asset to the neighborhood, and upon making findings substantiating the foregoing, may waive the application of the foregoing restriction and approve the transfer.

"The 1,250 foot requirement, as provided herein, shall be measured radially in all directions from the main entranceway of the new proposed location of the licensed establishment seeking a transfer to the main entranceway of existing licensed premises."

The said section was amended and supplemented by Ordinance #29, adopted by the City Council November 9, 1964, and approved by the Mayor November 10, 1964 (effective 20 days thereafter pursuant to the City Charter), and now reads as follows:

"Section 4 (b) No plenary retail distribution license or plenary retail consumption license shall be transferred to different premises within 625 feet of any other licensed establishment as aforesaid, provided, however, nothing herein shall prevent renewals or transfers to another licensee of licenses heretofore issued for use on the same premises on which the license is presently in operation. Notwithstanding the foregoing provision, the Municipal Board of Alcoholic Beverage Control of this City may, after hearing and upon review of the location and availability of other licensed establishments to persons living in and utilizing the facilities located in and around the proposed location and of general neighborhood characteristics and boundaries, determine that approval of the transfer shall be permitted upon a finding that the following conditions exist: (1) that there is a hardship confronting the licensee by reason of acquisition by a public agency of the premises utilized by the licensee; (2) that there is no undue concentration of establishments of the type to be relocated in the immediate area; and (3) that the proposed location is appropriate for the type of operation anticipated.

"The 625 foot requirement, as provided herein, shall be measured radically in all directions from the main entranceway of the new proposed location of the licensed establishment seeking a transfer to the main entranceway of existing licensed premises."

At the outset of the hearing herein it was argued by the attorney representing the appellant Frankel Wine & Liquor Corporation that the answers filed by respondent Board and respondent-licensees were inaccurate in certain respects. However, I shall be guided in my recommendation in the matter now before me solely upon the evidence presented in this case.

Appellant produced a number of witnesses who testified in opposition to the transfer. These included several liquor licensees with establishments in the municipality, a city councilman, the business manager employed by the local Board of Education, the attorney for said Board of Education, clergymen from various churches in the city, representatives from neighborhood civic associations, and others.

The main objection advanced by the witnesses on behalf of appellants was that the students attending East Orange High School might be tempted to purchase alcoholic beverages at respondent-licensees' place of business. Furthermore, some of the objectors were of the opinion that a traffic and parking problem would arise at or near the intersection where the proposed licensed premises is located. Others were of the opinion that there was no need for a liquor outlet at the proposed site.

Inasmuch as the facts presented disclose that the nearest entrance to East Orange High School on North Walnut Street is in excess of 200 feet from the nearest entrance of the respondent-licensees' premises, the statute with reference thereto has no application herein. R.S. 33:1-76.

John O. Lasser (hereinafter Lasser), called as a witness by appellant Frankel Wine & Liquor Corporation, testified that he is a real estate broker and has actively engaged in appraisal and research work. Lasser testified that he made a survey with reference to the location in this matter and that the building containing the proposed premises is a two-story structure in which there are "four apartments and six store units of which several store units have been combined;" that located in the said property "exclusive of the corner store which is the subject of this hearing" is a dry cleaner, a barber shop, a refrigerator repair store and "a candy store, newspaper type of store;" that within a radius of 1,250 feet of the proposed premises there are two plenary retail distribution licenses, one of which is the City Hall wine and liquor store at 361 Main Street and, "roughly opposite" is Frankel Wine & Liquor store at 366 Main Street; that within five blocks of the proposed premises are three more plenary retail distribution licenses and two plenary retail consumption licenses; that, based on the survey he made, it is his opinion that, taking into consideration the seven liquor outlets, it represents "undue crowding in that neighborhood;" that, since the area is predominantly residential, the license in question would not be an asset to the neighborhood; that, based upon his survey, there is no need for or convenience to be served by a liquor license at the proposed site.

Petitions opposing the transfer containing the signatures of three hundred eighty-one persons living in the area surrounding the proposed premises were marked as exhibits in evidence. Robert Moran testified that he formerly worked for appellant Frankel Wine & Liquor Corporation and is a very good friend of Mr. Frankel; that he obtained "80 to 90 of these signatures." John Yasner testified that at the request of Mr. Karl (attorney for Frankel Wine

& Liquor Corporation) he obtained signatures of objectors on the petitions and was paid fifteen cents for each signature. Mr. Yasner stated that he explained to each person what his mission was and handed them the petition to read, some signing the petition while others declined to do so.

Robert W. Hendricks (hereinafter Hendricks), called as a witness by respondent-licensees, testified that he is a real estate appraiser and, as part of the said work, does land-use studies. Hendricks said his office is located one block from the proposed premises; that he made a survey of the area which has many apartment houses, as a result of which it has "the highest density of population;" that, in his opinion, the license at the proposed premises would not cause over-crowding of liquor outlets which would be a convenience to persons in the area who desire to obtain alcoholic beverages.

Two persons living in the area of the proposed premises expressed the opinion that the licensed establishment would constitute a convenience to persons residing in that section of the community.

I shall first discuss the matter of the filing of the two applications in this case, the first of which was dismissed by the respondent Board on September 29, 1964, without prejudice. Each application is a separate one and must be decided in the sound discretion of the local issuing authority as constituted at the time the application is considered. Whalan v. Mount Olive Township and Thompson, Bulletin 1103, Item 2. The attorney for appellant Frankel Wine & Liquor Corporation contends that, since the initial application had been dismissed, the matter sub judice is now res judicata. However, only a final decision can be res judicata. If an agency dismisses a case "without prejudice," it is tantamount to a reservation of jurisdiction to reinstate the proceeding and thus no final action on the merits has been taken to constitute res judicata. Hastings Mfg. Co., v. Federal Trade Comm., 153 F. 2d 253 (6th Cir.), certiorari denied 328 U.S. 853, 66 S. Ct. 1344, 90 L. ed. 1626 (1946); Parke, A. & L. v. Federal Trade Comm., 142 F. 2d 437 (2d Cir. 1944), certiorari denied 323 U.S. 753.

It appears that the objectors are apprehensive that the licensed premises will create a moral hazard for the students who attend the High School. It is readily understandable that such concern may exist, especially on the part of those persons connected in any manner with the school system, and public-spirited citizens who might be active in local civic organizations. If the premises are conducted in a law-abiding manner (and it must be assumed that such will be the case), the students or other persons who have occasion to pass the liquor establishment or reside in the vicinity have nothing to fear. If perchance the licensed premises are permitted to be operated in violation of the alcoholic beverage law, the respondent-licensees will subject their license to either suspension or revocation.

The testimony presented discloses that the nearest liquor outlet is approximately 1,078 feet distant from the location of the respondent-licensees' place of business. Thus the transfer of the license does not in any appreciable degree aggravate the number of licenses in the area to sustain the appellants' contention that the respondent Board's action should be reversed on the ground that no public need exists for the license at the approved site. Smith et al. v. Newark and Black, Bulletin 1481, Item 2, and cases cited therein.

Moreover, in commenting on the objection of some of the liquor establishments in the area that the transfer would have an adverse effect on their business, it was said by former Commissioner Driscoll in Kelley v. Manalapan, Bulletin 531, Item 3:

"An issuing authority is not obligated to consider, when reaching a determination of whether to grant a liquor application, whether the financial interests of any pre-existing licensee will be promoted or harmed. The test in the issuance of liquor licenses is the welfare of the entire community and not the interference with the private rights of any individual."

See also Knast et al. v. Camden, et al., Bulletin 810, Item 2.

The number of licensed premises to be permitted in a particular area has been held to be a matter confided to the sound discretion of the local issuing authority. DiGioacchino v. Atlantic City, Bulletin 1030, Item 3. In cases of the kind now under consideration, the Director's function is to determine whether reasonable cause exists for the issuing authority's opinion and, if so, to affirm its action. Curry v. Margate City, Bulletin 460, Item 9; Mulcahy et al. v. Manlewood et al., Bulletin 658, Item 4; Krogh's Restaurant, Inc. et als. v. Sparta et al., Bulletin 1258, Item 1; Jacobs v. Newark et al., Bulletin 1398, Item 4.

The opinion given by witnesses that the existence of a liquor outlet on the corner of North Walnut Street and William Street would create a parking or traffic hazard is merely conjectural and has not been sufficiently established.

After a full, complete and impartial hearing before the respondent Board, the members of the said Board were of the opinion that, although the site for transfer was within 1,250 feet of another licensed premises, the transfer to 392 William Street would not result in undue crowding and concentration of licensed establishments, but will render a convenience and service to an extent not otherwise available to persons in the area of the location, and that the license will be consonant with and an asset to the neighborhood and thus expressly waived the 1,250 foot requirement.

In any event, during pendency of the appeals herein, by amendment to the ordinance the 1,250 foot requirement between premises in the event of a place-to-place transfer was changed to 625 feet. This being a hearing de novo, the law prevailing at the time of determination of the appeal governs. See Socony Vacuum Oil Co., Inc. v. Mount Holly Twp., 135 N. J. L. 112, and Cases Cited therein.

I am satisfied from a careful examination of the transcripts of the proceedings taken before the local Board and at the instant hearing that the matter was properly considered by the respondent Board before action was taken on the application for transfer. Furthermore, no evidence has been presented to indicate that the Board was in any manner improperly motivated in its action.

After careful review of all the evidence adduced herein and the memoranda submitted by the respective attorneys, I conclude that nothing has been presented by the appellants to indicate that the respondent Board had abused its discretion in approving the place-to-place transfer in question.

It is therefore recommended that an order be entered affirming the action of the respondent Board and dismissing the appeals.

Conclusions and Order

Pursuant to Rule 14 of State Regulation No. 15, written exceptions to the Hearer's Report and written argument in support thereof were filed by the attorneys for appellants Frankel Wine & Liquor Corporation and Federation of East Orange Neighborhood Associations, et al. Answer to the exceptions and written argument in support thereof were thereupon filed by the attorneys for the respective respondents.

At the hearing below it was emphasized by respondent Board that the determination of the application of Joseph M. Tavares & Matthew M. Pica, t/a Gold Rose Wines and Liquors, would be made under and by virtue of Section 4(b) of Ordinance #31, adopted on October 22, 1962. After careful examination of the reasons for its action expressed by respondent Board, I am satisfied that, in accordance with the evidence adduced, the grant of the place-to-place transfer of the license in question was duly approved and properly came within the confines of the pertinent section of Ordinance #31. Under the facts in this case I find it unnecessary for me to consider Section 4(b), as amended and supplemented, in Ordinance #29, adopted November 9, 1964 and approved by the Mayor November 10, 1964, which, by the terms of the City Charter, became effective twenty days thereafter. This Ordinance changed the distance requirement between premises for place-to-place transfer from 1,250 feet to 625 feet and required proofs different from the provisions of Ordinance #31 of 1962. Since the record below and on appeal showed clearly that there is no other licensee within 625 feet of the proposed location, the subsequent ordinance makes the granting of the license transfer in the case herein discretionary with the Board without the necessity of establishing the elements under Ordinance #31. If anything, the appellant's position under the new ordinance as opposed to the old is less tenable.

I have examined and considered all the other points raised by appellants' attorneys and find that those which merited comment were amply and properly covered in the Hearer's report.

Under the circumstances and after careful consideration of the transcript of testimony, the memoranda filed by the attorneys herein, the arguments of said attorneys, and the Hearer's report (with the exception of the application of Ordinance #29 aforementioned by the Hearer), I concur in his findings and conclusions and adopt his recommendations. I shall affirm the action of respondent Board and dismiss the appeals herein.

Accordingly, it is on this 8th day of July 1965,

ORDERED that the action of respondent Municipal Board of Alcoholic Beverage Control of the City of East Orange in granting respondent licensees' application for place-to-place transfer of license be and the same is hereby affirmed, and that the appeals herein be and the same are hereby dismissed.

Joseph P. Lordi,  
Director

2. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - SALE TO MINORS - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

Edward Pyryt )  
t/a Pirate's Tavern )  
22 Jackson Street )  
Passaic, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-107, issued by the Board of Commissioners of the City of Passaic )  
-----

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

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on June 11, 1965, he (1) sold twelve bottles of beer for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38, and (2) sold the said twelve bottles of beer to a minor, age 18, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended on the first charge for fifteen days (Re Ja-Da, Inc., Bulletin 1614, Item 9) and on the second charge for fifteen days (Re Charlie's Capri, Inc., Bulletin 1595, Item 5), 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 12th day of July, 1965,

ORDERED that plenary Retail Consumption License C-107 issued by the Board of Commissioners of the City of Passaic to Edward Pyryt, t/a Pirate's Tavern, for premises 22 Jackson Street, Passaic, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. Monday, July 19, 1965, and terminating at 3:00 a.m. Friday, August 13, 1965.

Joseph P. Lordi,  
Director

3. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING SUSPENSION AFTER DISMISSAL OF APPEAL TO APPELLATE DIVISION.

In the Matter of Disciplinary Proceedings against Erlton Bowl Lounge, Inc. North corner at Ellisburg Shopping Center Cherry Hill, N. J.

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Board of Commissioners of the Township of Cherry Hill

Stein & Rosen, Esqs., by Nicholas J. LaRocca, Esq., Attorneys for Licensee Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control

BY THE DIRECTOR:

On March 9, 1965, I entered Conclusions and Order herein suspending the license for ten days commencing March 16, 1965, for sale of alcoholic beverages to minors. Re Erlton Bowl Lounge, Inc., Bulletin 1612, Item 6.

Prior to the effectuation of the order of suspension, upon appeal filed, the Appellate Division of the Superior Court stayed the operation of the suspension until the outcome of the appeal.

On June 14, 1965, the appeal was dismissed because of appellant's failure to file its brief in accordance with the rules. The suspension may now be reimposed.

Accordingly, it is, on this 21st day of June, 1965,

ORDERED that the ten-day suspension heretofore imposed, and stayed during the pendency of proceedings on appeal, be reinstated against Plenary Retail Consumption License C-2, issued by the Board of Commissioners of the Township of Cherry Hill to Erlton Bowl Lounge, Inc. for premises North corner at Ellisburg Shopping Center, Cherry Hill, for the balance of its term, viz., until midnight, June 30, 1965, commencing at 3:00 a.m. Monday, June 28, 1965; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 3:00 a.m. Thursday, July 8, 1965.

Joseph P. Lordi, Director

4. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY  
LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

Whitey's Cafe, Inc. )  
t/a Whitey's Cafe )  
782 State Street )  
Perth Amboy, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-87, issued by the Board )  
of Commissioners of the City of )  
Perth Amboy )  
-----

Kovacs, Anderson, Horowitz & Rader, Esqs., by Oliver R. Kovacs, Esq.,  
Attorneys for Licensee.

Morton B. Zemel, Esq., Appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on  
April 20, 1965, it possessed alcoholic beverages in five bottles  
bearing labels which did not truly describe their contents, in  
violation of Rule 27 of State Regulation No. 20.

Although the licensee has no previous record of suspen-  
sion of license, the license then held by Theodore Hawrysz (a  
principal stockholder of the licensee corporation) for the same  
premises was suspended by the municipal issuing authority for ten  
days effective June 3, 1942, with operation of sentence suspended,  
for mislabeled beer taps, and by the commissioner for ten days  
effective June 4, 1945, for possession of alcoholic beverages not  
genuine as labeled. Re Hawrysz, Bulletin 669, Item 12.

The prior record of suspension for dissimilar and  
similar violations occurring, respectively, more than five and  
ten years ago disregarded, the license will be suspended for  
twenty-five days, with remission of five days for the plea entered,  
leaving a net suspension of twenty days. Re Villa Robatto, Inc.,  
Bulletin 1605, Item 6.

Accordingly, it is, on this 13th day of July, 1965,

ORDERED that Plenary Retail Consumption License C-87,  
issued by the Board of Commissioners of the City of Perth Amboy  
to Whitey's Cafe, Inc., t/a Whitey's Cafe, for premises 782 State  
Street, Perth Amboy, be and the same is hereby suspended for twenty  
(20) days, commencing at 2 a.m. Tuesday, July 20, 1965, and  
terminating at 2:00 a.m. Monday, August 9, 1965.

Joseph P. Lordi  
Director

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY  
LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

Oak Tree Associates, Inc. )  
t/a Royal Oaks )  
1700 Oak Tree Road )  
Edison Township )  
PO Iselin, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-10, issued by the Municipal )  
Council of the Township of Edison )  
----- )

Joseph A. Manzione, Esq., Attorney for Licensee.  
Morton B. Zemel, Esq., Appearing for the Division of Alcoholic  
Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on  
June 5, 1965, it possessed alcoholic beverages in five bottles  
bearing labels which did not truly describe their contents, in  
violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for  
twenty-five days, with remission of five days for the plea  
entered, leaving a net suspension of twenty days. Re 655 McCarter  
Highway, Inc., Bulletin 1617, Item 10.

Accordingly, it is, on this 13th day of July, 1965,

ORDERED that Plenary Retail Consumption License C-10,  
issued by the Municipal Council of the Township of Edison to Oak  
Tree Associates, Inc., t/a Royal Oaks, for premises 1700 Oak Tree  
Road, Edison, be and the same is hereby suspended for twenty (20)  
days, commencing at 2:00 a.m. Tuesday, July 20, 1965, and termi-  
nating at 2:00 a.m. Monday, August 9, 1965.

Joseph P. Lordi,  
Director

6. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against John Levito t/a Cross Town Tavern 413 Pacific Avenue Jersey City, N. J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-461, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City

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

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 18, 1965, he sold a pint bottle of wine for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Licensee (in partnership with Vincent A. Marino at 319 First Street, Jersey City) has a previous record of suspension of license by the Director for ten days effective July 5, 1960 for sale during prohibited hours. Re Levito and Marino, Bulletin 1349, Item 5.

The prior record of suspension of license for similar violation occurring more than five but less than ten years ago considered, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Brass Rail Liquors, Inc., Bulletin 1610, Item 7.

Accordingly, it is, on this 13th day of July, 1965,

ORDERED that Plenary Retail Consumption License C-461, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to John Levito, t/a Cross Town Tavern, for premises 413 Pacific Avenue, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Tuesday, July 20, 1965, and terminating at 2:00 a.m. Wednesday, August 4, 1965.

Joseph P. Lordi Director

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
 Mamie Rockman, Sidney Rockman and Howard Rockman  
 t/a Rockman's Tavern & Liquor Store  
 63 Randolph St.  
 Carteret, N. J.  
 Holders of Plenary Retail Consumption License C-32, issued by the Borough Council of the Borough of Carteret  
 - - - - -

CONCLUSIONS AND ORDER

Warren W. Wilentz, Esq., Attorney for Licensees  
 Morton B. Zemel, Esq., Appearing for the Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensees plead no defense to a charge alleging that on May 13, 1965, they possessed alcoholic beverages in three bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

In alleged mitigation, licensees set forth that they had no knowledge of the cause of the violation charged except to suggest that the bottles were permitted to stand for a long time and the change in color and proof was the result of evaporation of the liquor. This reason must be rejected.

Absent prior record, the minimum penalty for a violation of this kind will be imposed and the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Scuderi, Bulletin 1605, Item 8.

Accordingly, it is, on this 13th day of July, 1965,

ORDERED that Plenary Retail Consumption License C-32, issued by the Borough Council of the Borough of Carteret to Mamie Rockman, Sidney Rockman and Howard Rockman, t/a Rockman's Tavern & Liquor Store, for premises 63 Randolph Street, Carteret, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a. m. Monday, July 19, 1965, and terminating at 2:00 a. m. Tuesday, August 3, 1965.

Joseph P. Lordi,  
 Director

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

In the Matter of Disciplinary Proceedings against Joseph Edward Consavage t/a Big Joe's Tavern 365 Henderson Street Jersey City, N. J.,

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-409, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Licensee, 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 Sunday, June 13, 1965, he sold a pint bottle of wine for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Ja-Da, Inc., Bulletin 1614, Item 9.

Accordingly, it is, on this 6th day of July 1965,

ORDERED that Plenary Retail Consumption License C-409, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Joseph Edward Consavage, t/a Big Joe's Tavern, for premises 365 Henderson Street, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Tuesday, July 13, 1965, and terminating at 2 a.m. Friday, July 23, 1965.

Joseph P. Lordi Director

9. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Polish Home Bldg. Ass'n., Inc. 353-57 Grove Street Jersey City, N. J., Holder of Plenary Retail Consumption License C-251, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS AND ORDER

Licensee, by Zygmunt Baranowski, Secretary 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 June 25, 1965, it sold drinks of alcoholic beverages to two minors, age 17 and 18, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Club "16" Corporation, Bulletin 1472, Item 10.

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

ORDERED that Plenary Retail Consumption License C-251, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Polish Home Bldg. Ass'n., Inc., for premises 353-57 Grove Street, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Thursday, July 29, 1965, and terminating at 2 a.m. Friday, August 13, 1965.

Handwritten signature of Joseph P. Lordi, Director.