

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 908

June 14, 1951

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1. STATE REGULATIONS - EXISTING REGULATIONS NO. 30 (FAIR TRADE PRICE) DISCONTINUED AND REVISED REGULATIONS NO. 30 (MINIMUM CONSUMER RESALE PRICE) PROMULGATED.

CURRENT MINIMUM RESALE PRICE LIST ANNOUNCED IN EFFECT UNTIL AUGUST 1, 1951.

CURRENT WHOLESALE PRICE LIST CONTINUED IN EFFECT UNTIL AUGUST 1, 1951.

TO ALL NEW JERSEY LICENSEES:

Under the New Jersey Alcoholic Beverage Law, the Director of Alcoholic Beverage Control is directed by the Legislature, by R.S. 33:1-3, "to supervise the manufacture, distribution and sale of alcoholic beverages in such a manner as to promote temperance and eliminate the racketeer and bootlegger". By R.S. 33:1-23, the Director is authorized "to do, perform, take and adopt all other acts, procedures and methods designed to insure the fair, impartial, stringent and comprehensive administration" of the Alcoholic Beverage Law. By R. S. 33:1-39, the Director is authorized to make such general rules and regulations as may be necessary for the proper regulation and control of the manufacture, sale and distribution of alcoholic beverages with reference to the subjects (among others) of "unfair competition" and "practices unduly designed to increase consumption of alcoholic beverages".

Administrative experience has demonstrated that price wars with respect to sale of liquor unduly stimulate the sale and consumption thereof and create a disorderly market with its attendant evils in terms of the public interest. Accordingly, it has been determined, pursuant to statutory authority and in keeping with the decision of the former New Jersey Supreme Court in Gaine v. Burnett, 122 N.J.L. 39, affirmed Court of Errors and Appeals, 123 N.J.L. 317, to promulgate a revision of State Regulations No. 30 designed better to accomplish the foregoing purposes.

Pursuant to R. S. 33:1-39, revised Regulations No. 30 are promulgated and existing Regulations No. 30 are discontinued effective May 25, 1951; provided, however, that Rules 5 and 6 of existing Regulations No. 30 are and will be continued in full force and effect so long as may be necessary with respect to violations thereof committed prior to May 25, 1951. The Minimum Resale Price List dated April 1, 1951 and currently in effect is designated the "currently effective Minimum Resale Price List" as to those alcoholic beverages (other than malt alcoholic beverages) which will be subject to the provisions of Rules 5, 6 and 7 of revised Regulations No. 30 until the effective date of a new Minimum Resale Price List. Pursuant to Rule 4 of revised Regulations No. 30, the currently effective Minimum Resale Price List (except as to malt alcoholic beverages) will be continued in effect until August 1, 1951, by reason of the existence of an emergency resulting from the mechanical problems of compilation and printing of the first Minimum Resale Price List to be published pursuant to revised Regulations No. 30 on August 1, 1951 in lieu of the Minimum Resale Price List normally due for publication on July 1, 1951. Likewise, pursuant to Rule 7 of State Regulations No. 34, the currently effective Wholesale Price List dated April 1, 1951 will be continued in effect until August 1, 1951. Restating the matter with particular emphasis so far as retailers are

concerned, the currently effective (April 1951) Minimum Resale Price List (except as to malt alcoholic beverages) will be continued in effect until August 1, 1951 and sale of any item listed therein (other than malt alcoholic beverages) below the listed price is cause for suspension or revocation of license.

In view of the fact that many brands of alcoholic beverages are presently in the market but are not listed in the currently effective Minimum Resale Price List, manufacturers and wholesalers may continue until August 1, 1951 to exercise the privilege of sale of these unlisted items to retailers notwithstanding provisions of Rule 1 of revised Regulations No. 30 which thereafter will prohibit such sale unless the item is listed in a schedule of minimum consumer resale prices to be filed by the manufacturer or wholesaler with the Director of the Division of Alcoholic Beverage Control.

Price listings in addition to those already filed pursuant to Rule 1 of existing Regulations No. 30 and Rule 1 of State Regulations No. 34 and changes in listings already filed will be received until 4:00 p.m., June 11, 1951, for inclusion in the August 1, 1951 Minimum Resale Price List and Wholesale Price List to be published to be effective on that date. Manufacturers and wholesalers are reminded that listings for the August 1, 1951 Minimum Resale Price List must be filed not later than June 11, 1951 to permit sale of such items to retailers after August 1, 1951. Manufacturers and wholesalers are further reminded that listings for the October 1, 1951 Minimum Resale Price List and Wholesale Price List must be filed not later than August 20, 1951 to permit their inclusion in those lists and to permit sale of such items to retailers after October 1, 1951.

Revised Regulations No. 30 are as follows:

STATE REGULATIONS NO. 30

Minimum Consumer Resale Prices of Alcoholic Beverages

Rule 1. No manufacturer or wholesaler of alcoholic beverages shall sell, offer for sale or deliver to any retailer, any alcoholic beverage the container of which bears the brand or the name of the owner or producer, unless a schedule of minimum consumer resale prices for each such brand of alcoholic beverages shall first have been filed with the Director of the Division of Alcoholic Beverage Control for each quarter-annual period designated in Rule 3, by (1) the manufacturer or wholesaler who owns such brand, or (2) a wholesaler selling such brand who is appointed as exclusive agent by the brand owner for the purpose of filing such schedule, or (3) any wholesaler with the approval of the Director in the event that the owner of such brand does not file or is unable to file a schedule or designate an agent for such purposes; provided, however, that nothing contained herein shall require any manufacturer or wholesaler to file a schedule of minimum consumer resale prices for any brand of alcoholic beverages offered for sale or sold by its manufacturer or wholesaler exclusively to one New Jersey retailer.

Rule 2. Schedules of minimum consumer resale prices required to be filed with the Director shall be filed, in form to be prescribed by the Director, not later than the 20th day of February, May, August and November of each year.

Rule 3. Minimum Resale Price Lists shall be published quarterly by the Director to become successively effective on and after the first day of January, April, July and October of each year, and shall list by type and brand name the minimum consumer resale prices listed with the Director by manufacturers and wholesalers in accordance with Rule 1. Said Minimum Resale Price Lists shall be printed in pamphlet form and mailed to all New Jersey retailers not later than three business days before the effective date of such price lists. All manufacturers and wholesalers who have filed minimum consumer resale price listings shall be chargeable with a proportionate cost of the printing and mailing of the pamphlet so published and mailed.

Rule 4. The Director may, upon adequate cause appearing therefor, suspend or defer the foregoing provisions as to the time of filing minimum consumer resale price listings, time of publication of Minimum Resale Price Lists, and time of mailing to retailers, to permit changes in minimum resale prices to take effect upon such shorter or longer notice as he may prescribe. Any Minimum Resale Price List then currently effective may be continued in effect after the scheduled publication date of the next succeeding Minimum Resale Price List by announcement of the Director upon his finding that an emergency exists.

Rule 5. No licensee shall sell or advertise for sale at retail, directly or indirectly, any alcoholic beverage listed in the then currently effective Minimum Resale Price List published by the Director of the Division of Alcoholic Beverage Control at less than its listed price; provided, however, that a special permit so to do may be granted by the Director for special cause shown pursuant to Rule 7.

Rule 6. No licensee shall advertise, directly or indirectly, in any periodical, publication, circular, handbill or direct mailing piece, the retail price of any alcoholic beverage not listed in the then currently effective Minimum Resale Price List published by the Director of the Division of Alcoholic Beverage Control; provided, however, that nothing herein contained shall prohibit such price advertising of a private or exclusive brand confined to, or owned, controlled or distributed by a single retailer, and stated to be such in the advertisement.

Rule 7. Application by a licensee privileged to sell alcoholic beverages at retail for a special permit authorizing the sale of any particular item affected by the price listed in the Minimum Resale Price List at less than the price stipulated therein will be entertained by the Director in the following situations: (a) where the item was actually possessed by the licensee prior to the initial listing of the item in the Minimum Resale Price List; (b) where the licensee is actually and permanently closing out his stock for the purpose of completely discontinuing sale of such item; (c) where the item is damaged or deteriorated in quality and notice is given to the public thereof; and (d) where sale of the item is by an officer acting under order of any court.

Rule 8. Nothing contained in these Regulations shall apply to malt alcoholic beverages.

ERWIN B. HOCK
Director.

Dated May 25, 1951.

Filed with the Secretary of State
of New Jersey May 25, 1951.

2. MINIMUM RESALE PRICE LIST - NOTICE OF PUBLICATION.

The first complete and official publication of minimum consumer resale prices pursuant to revised Regulations No. 30 will become effective on August 1, 1951. Prices to be listed must be filed with the office of this Division not later than 4:00 p.m. of June 11, 1951. It is extremely important to note the following:

1. A listing of minimum consumer resale prices covering every brand and item sold to retailers in this State must be made either by the manufacturer or wholesaler who owns the brands; or a wholesaler who sells the brands and has written authorization from the owner of the brands to file price listings; or by any wholesaler, who sells a brand whose owner does not file or is unable to file a schedule or designate an agent for such purposes, provided my approval is obtained for such filing. Note particularly that every wholesaler is not required to file minimum consumer prices.
2. In submitting minimum consumer resale prices, those who are listing minimum consumer resale prices should include in their schedules the brands and items previously submitted by them (or anyone else) on or before May 20th, and intended for publication in the July 1st Minimum Resale Price List, whose effective date has now been extended to August 1, 1951.
3. Manufacturers or wholesalers are not required to file a schedule of minimum consumer resale prices for any brand sold exclusively to one New Jersey retailer.
4. Where listers of brands choose to publish a permissive case lot discount, the phrase "Discount of _____% permitted on case lot purchases" should be used.
5. True copies of labels or photostats of labels of brands to be listed in the Minimum Resale Price List must be submitted with the schedule of price listings, if such labels have not been previously submitted. (A separate label for each type listed under a brand name and each label must be attached to a separate letterhead.)
6. Price listings may be submitted by letter in the same form as heretofore.

NOTE OF CAUTION AND WARNING: ANY BRAND OF ALCOHOLIC BEVERAGE NOT LISTED TO BE PUBLISHED IN THE MINIMUM RESALE PRICE LIST TO BECOME EFFECTIVE AUGUST 1, 1951 MAY NOT BE SOLD TO A NEW JERSEY RETAILER BY ANY MANUFACTURER OR WHOLESALER ON AND AFTER AUGUST 1, 1951.

Notification of the proportionate share of aggregate expenses involved in the publication of the new complete Minimum Resale Price List will be made to participating listers as soon as the pamphlet is mailed to all retail licensees.

ERWIN B. HOCK
Director.

Dated: May 25, 1951.

3. ACTIVITY REPORT FOR MAY 1951

ARRESTS:			
Total number of persons arrested	-----	22	
Licensees and employees	5		
Bootleggers	17		
SEIZURES:			
Motor vehicles - cars	-----	1	
Stills - over 50 gallons	-----	1	
- 50 gallons or under	-----	1	
Mash - gallons	-----	1,100.00	
Distilled alcoholic beverages - gallons	-----	27.76	
Wine - gallons	-----	105.69	
Brewed malt alcoholic beverages - gallons	-----	24.64	
RETAIL LICENSEES:			
Premises inspected	-----	991	
Premises where alcoholic beverages were gauged	-----	1,039	
Bottles gauged	-----	18,020	
Premises where violations were found	-----	46	
Violations found	-----	50	
Type of violations found:			
Unqualified employees	9	Gambling devices	2
Prohibited signs	4	Improper beer taps	2
Disposal permit necessary	4	Other mercantile business	2
Reg. #38 sign not posted	3	Probable front	1
		Other violations	23
STATE LICENSEES:			
Premises inspected	-----	4	
License applications investigated	-----	18	
COMPLAINTS:			
Complaints assigned for investigation	-----	422	
Investigations completed	-----	416	
Investigations pending	-----	118	
LABORATORY:			
Analyses made	-----	150	
"Shake-up" cases (alcohol, water and artificial color) - bottles	-----	9	
Liquor found to be not genuine as labeled - bottles	-----	1	
IDENTIFICATION BUREAU:			
Criminal fingerprint identifications made	-----	45	
Persons fingerprinted for non-criminal purposes	-----	225	
Identification contacts made with other enforcement agencies	-----	225	
Motor vehicle identifications via N. J. State Police Teletype	-----	17	
DISCIPLINARY PROCEEDINGS:			
Cases transmitted to municipalities	-----	13	
Violations involved:			
Sale during prohibited hours	6	Bookmaking on premises	1
Sale to minors	3	Hostesses on premises	1
Gambling on premises (cards)	1	Sale to non-members by clubs	1
Cases instituted at Division	-----	24	
Violations involved:			
Possessing illicit liquor	4	Licensee working while drunk	1
Solicitor engaging in conduct prohibited to employer	4	Lotteries on premises (raffle)	1
Immoral activity on premises	3	Sale on Election Day	1
Bookmaking on premises	3	Sale to minors	1
Mislabeling beer taps	3	Possessing contraceptives on premises	1
Hindering investigation	2	Purchase from improper source	1
Sale during prohibited hours	2	Transportation in unlicensed vehicle	1
Furthering illegal activity	2	Delivery without bona fide invoice	1
Employing unqualified persons	1	Wholesaler accepting unlawful returns	1
Act of violence on premises	1	Sale outside scope of license	1
Storage off licensed premises	1		
Cases brought by municipalities on own initiative and reported to Division	-----	6	
Violations involved:			
Sale to minors	5		
Gambling on premises (cards)	1		
HEARINGS HELD AT DIVISION:			
Total number of hearings held	-----	37	
Appeals	2	Seizures	7
Disciplinary proceedings	23	Tax revocation	1
Eligibility	2	Applications for license	2
PERMITS ISSUED:			
Total number of permits issued	-----	914	
Employment	156	Social affairs	417
Solicitors	85	Miscellaneous	129
Disposal of alcoholic beverages	127		

Dated: June 1, 1951.

ERWIN B. HOCK, DIRECTOR

4. APPELLATE DECISIONS - RIDGEFIELD DELICATESSEN v. RIDGEFIELD.

RIDGEFIELD DELICATESSEN (a corp.) of New Jersey),)	
)	
Appellant,)	
-vs-)	ON APPEAL
)	CONCLUSIONS AND ORDER
MAYOR AND COUNCIL OF THE BOROUGH) OF RIDGEFIELD,)	
)	
Respondent.)	

Mortimer L. Mahler, Esq., Attorney for Appellant.
Edwin A. A. Muller, Esq., Attorney for Respondent.
Sidney Simandl, Esq., Attorney for United Beverage Assn. of New
Jersey and Licensed Beverage Assn. of the Borough of
Ridgefield, Objectors.

BY THE DIRECTOR:

This is an appeal from the alleged denial of appellant's application for a limited retail distribution license for premises at 672 Shaler Boulevard, Borough of Ridgefield.

It has been stipulated that appellant "meets with all of the legal requirements in connection with the application", and that there are no local regulations limiting the number of limited retail distribution licenses which may be issued in the borough.

The testimony of Otto Ehrlich, Borough Clerk, discloses that appellant's application was filed on January 10, 1951; that an executive session of respondent Mayor and Council was held on the evening of February 5, 1951, at which time the application was considered and arguments presented by Joseph Levine and Florence Mahler (stockholders of appellant corporation) in favor of the issuance of the license were heard; that a regular meeting of the Mayor and Council was held on the evening of February 6, 1951, at which no formal action on the application was taken, and that on February 13, 1951, the Borough Clerk, acting on instructions received from Councilman Scheyer, sent a letter to Joseph Levine advising him that appellant's application had been denied. No minutes of the executive session were kept, and it is admitted by the Borough Clerk that the Mayor and Council has never passed a resolution denying the application. Hence it appears that to date there has been no action from which an appeal could be taken. Cf. Vrabel v. Florence, Bulletin 114, Item 12. Under these circumstances, I have no alternative except to remand the case to respondent for further action upon the application.

Accordingly, it is, on this 31st day of May, 1951,

ORDERED that the appeal herein be and the same is hereby remanded to respondent for the purpose of adopting in proper form a resolution granting or denying appellant's application.

ERWIN B. HOCK
Director.

5. APPELLATE DECISIONS - GIANFORTUNO v. BELLMAWR AND RICHARTZ.

ANTHONY GIANFORTUNO,)
Appellant,)

-vs-

MAYOR AND COUNCIL OF THE BOROUGH)
OF BELLMAWR, and JOSEPH RICHARTZ,)
t/a JOE'S CAFE,)
Respondents.)

ON APPEAL
CONCLUSIONS AND ORDER

Gene R. Mariano, Esq., Attorney for Appellant.
Carl Auerbach, Esq., Attorney for Respondent Mayor and Council.
Benjamin Asbell, Esq., Attorney for Respondent Joseph Richartz.

BY THE DIRECTOR:

This is an appeal from the denial of appellant's application for the transfer to him of a plenary retail consumption license, now held by the respondent Joseph Richartz, and from premises at 338 South Black Horse Pike to premises at 32 East Browning Road in the Borough of Bellmawr. Incidentally, Joseph Richartz is not a necessary party to the appeal.

Three members of the Borough Council voted for denial of appellant's application for transfer, and two members of the Council voted for the granting thereof. The reason assigned for the refusal to transfer was that the three members of the Borough Council who voted against the transfer desired to reduce the number of existing plenary retail consumption licenses from five to four. This was in furtherance of a resolution approved by the Mayor and Council of the Borough of Bellmawr on June 8, 1937, which limited the number of licenses for the sale of alcoholic beverages at retail to four but permitted renewals of licenses then outstanding. Aside from the license in question, four other plenary retail consumption licenses are now outstanding in the borough.

While fixing the quota for licenses in the borough, the resolution in no way purports to restrict their statutory transferability (R. S. 33:1-26), either from person to person or from place to place. Cf. Luzzi v. Nutley, Bulletin 244, Item 5. This is not an application for a new license but, rather, an application to transfer an existing license. In Kirschhoff v. Millville et al., Bulletin 254, Item 8, the late Commissioner Burnett, in passing on a matter such as the one in question, said:

"Indubitably, reduction of the number of licenses in a municipality, when too many are deemed to be outstanding therein, is a praiseworthy end. But this objective may not be achieved in complete disregard of individual interests. Conway v. Haddon, Bulletin 251, Item 3. Licensees invest time, effort and money in their licensed businesses. The statute provides for a method whereby, through transfer of license within the sound discretion of the issuing authority, they may sell their businesses and may remove them to new sites. In fairness, they should not be denied this privilege and be forced to the alternative of remaining in their liquor business willy-nilly and at the same location or else surrendering their investment, merely because the municipal authorities erred in previously granting too many licenses and now wish to correct that mistake by destroying transferability."

No objections, either written or verbal, as to the personal qualifications of appellant, or as to the location of the premises for which a license is sought, had been made before the issuing authority at the time the original hearing was held or at the hearing held herein. The building appears from the testimony of five of the

Councilmen to be suitable for the purpose desired. A transfer, whether from person to person or from place to place, may be denied if there are valid and reasonable grounds to justify such refusal. Craig v. Orange, Bulletin 251, Item 4. No such grounds, however, appear in the instant case.

The action of the respondent Mayor and Council of the Borough of Bellmawr is, therefore, reversed.

Accordingly, it is, on this 31st day of May, 1951,

ORDERED that the action of respondent Mayor and Council in refusing transfer of the plenary retail consumption license held by respondent Joseph Richartz for premises at 338 South Black Horse Pike to appellant for premises at 32 East Browning Road, Bellmawr, be and the same is hereby reversed, and respondent Mayor and Council is directed to issue forthwith the transfer for which application was made by appellant.

ERWIN B. HOCK
Director.

6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY MINOR PERMITTEE CONTRARY TO CONDITIONS OF PERMIT - PERMIT SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

PATSY LOUIS MAZZUCCO)
Central Avenue)
New Providence, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Employment Permit No. 172,)
issued by the State Director of)
Alcoholic Beverage Control.)

Patsy Louis Mazzucco, Defendant-permittee, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to a charge alleging that he sold alcoholic beverages in violation of a condition in his minor's employment permit, in violation of R. S. 33:1-26.

On March 27, 1951, defendant, a minor and holder of an employment permit, sold six cans of beer at the licensed premises of his employer, Angelo V. Mazzucco. The licensed premises are located on South Street, New Providence. Such sale is contrary to a condition in the permit and is prohibited by R. S. 33:1-26.

Defendant has no prior adjudicated record.

I shall suspend his permit for thirty days. Remitting five days because of the plea will leave a net suspension of twenty-five days. Re Wilson, Bulletin 847, Item 9.

Accordingly, it is, on this 21st day of May, 1951,

ORDERED that Employment Permit No. 172, issued by the State Director of Alcoholic Beverage Control to Patsy Louis Mazzucco, Central Avenue, New Providence, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 9:00 a.m. May 28, 1951, and terminating at 9:00 a.m. June 22, 1951.

ERWIN B. HOCK
Director.

7. DISCIPLINARY PROCEEDINGS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - SITUATION CORRECTED - LICENSE SUSPENDED FOR 30 DAYS.

MORAL TURPITUDE - VIOLATION OF ALCOHOLIC BEVERAGE LAW FOUND NOT TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.

In the Matter of Disciplinary Proceedings against)

HELEN TOMARO)
T/a J. & W. BAR & GRILL)
404 Washington Road)
Sayreville, N. J.,)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-53, issued by the Sayreville Borough Council, and transferred during the pendency of these proceedings to)

HELEN TOMARO and CHARLES D. TOMARO)
T/a J. & W. BAR & GRILL,)

for the same premises.)

Anthony Giuliano, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

- "1. In your application dated January 18, 1951, filed with the Borough Council of Sayreville, upon which you obtained your current plenary retail consumption license, you falsely stated 'No' in answer to Question 30, which asks: 'Has any individual....other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?', whereas in truth and fact Charles Tomaro had such an interest in that he was co-owner with you of the said business; said false statement being in violation of R. S. 33:1-25.
- "2. From on or about February 22, 1951 until the present time, you knowingly aided and abetted Charles Tomaro to exercise, contrary to R. S. 33:1-26, the rights and privileges of your plenary retail consumption license; thereby yourself violating R. S. 33:1-52."

The file herein discloses that on January 18, 1951, defendant filed with the Borough Council of the Borough of Sayreville an application for a transfer to herself of the license in question, which had been originally issued to another individual. In said application she denied that any individual other than the applicant had any interest, directly or indirectly, in the license or in the business to be conducted thereunder. In accordance with the application, the license was transferred to defendant on February 21, 1951. During the course of the investigation defendant admitted that her husband, Charles Tomaro, was at all times an undisclosed partner in the license transferred to her and in the business conducted thereunder.

The file herein also discloses that, in May 1932, Charles Tomaro pleaded guilty in a Court of Special Sessions to a charge of violating the Volstead Act and was fined \$300.00. This conviction, which occurred during Prohibition, did not involve moral turpitude. On September 30, 1946, while he was the holder of a plenary retail consumption license for premises located in Bound Brook, his license was suspended for a period of sixty days by the Commissioner after he had pleaded non vult to a charge of purchasing alcoholic beverages from a person not the holder of a New Jersey manufacturer's or wholesaler's license. See Re Tomaro, Bulletin 732, Item 9. On November 18, 1946, he pleaded non vult in a Court of Special Sessions of Somerset County to four counts of an indictment alleging purchase, possession and sale of illicit alcoholic beverages and was fined \$750.00. A fifth count of said indictment alleging that he had received stolen goods was subsequently nolle prossed. Since the four counts in the indictment related to a single transaction, the entry of the plea in the case has been considered as the entry of a plea for one offense for violating the provisions of the Alcoholic Beverage Law and, since the fifth count for receiving stolen goods was nolle prossed, it has been ruled that the conviction in that case did not involve moral turpitude.

On May 17, 1951, the license in question was transferred to Helen Tomaro and Charles D. Tomaro, t/a J. & W. Bar & Grill, so that the illegal situation has been corrected.

Ordinarily, where an undisclosed partner has been convicted of crimes which do not involve moral turpitude and the situation is thereafter corrected, the license is suspended for a period of thirty days. However, in view of the fact that Charles Tomaro also has a prior record during the time he held a license in Bound Brook, the license in this proceeding will be suspended for a period of thirty-five days.

Accordingly, it is, on this 29th day of May, 1951,

ORDERED that Plenary Retail Consumption License C-53, issued by the Sayreville Borough Council to Helen Tomaro, t/a J & W Bar & Grill, for premises 404 Washington Road, Sayreville, and transferred during the pendency of these proceedings to Helen Tomaro and Charles D. Tomaro, t/a J. & W. Bar & Grill, for the same premises, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. June 5, 1951; and it is further

ORDERED that, if any license be issued to these licensees or to any other person for the premises in question for the 1951-52 licensing year, such license shall be under suspension until 3:00 a.m. July 10, 1951.

ERWIN B. HOCK
Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - SALE OF ALCOHOLIC BEVERAGES BEYOND TERMS OF LICENSE - AIDING AND ABETTING NON-LICENSEE TO SELL ALCOHOLIC BEVERAGES - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

JAMES J. CRAPAROTTA
T/a NEW CLUB MONROE
E. Lincoln Avenue
Monroe Township (Middlesex Co.)
P.O. Jamesburg, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Township Committee of Monroe Township (Middlesex County).

James J. Craparotta, Defendant-licensee, Pro Se.
Vincent T. Flanagan, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to charges alleging that he (1) sold, served and delivered to and permitted the consumption of alcoholic beverages by minors upon his licensed premises, in violation of Rule 1 of State Regulations No. 20; (2) sold alcoholic beverages outside of and beyond the terms of his license as defined in R. S. 33:1-12(1), in violation of R.S. 33:1-2; and (3) aided and abetted a non-licensee, not the holder of a special permit, to sell alcoholic beverages, in violation of R.S. 33:1-52.

An examination of the file in the instant case discloses that on April 21, 1951, ABC agents observed two youths, each 18 years of age, purchase alcoholic beverages from an employee of defendant-licensee. One of the minors, Patrick D---, purchased a glass of beer on two separate occasions. Joseph H---, the other minor, purchased a whiskey highball for a girl companion. He also drank beer poured by him into a glass from a pitcher which was on a table in the dining room. At 12:00 midnight, April 22, 1951, the latter minor was observed coming from a small room adjoining the dining room with a pitcher of beer. The ABC agents thereupon made known their identity.

The investigation made by the ABC agents disclosed that the licensee had made arrangements with the officers of a social club whereby he furnished a meal on the evening in question to the members of the club, together with two-half-barrels of beer for their consumption, at a cost to the club of \$2.75 per person. Although no special permit was obtained from this Division by the club to sell alcoholic beverages at the social affair conducted on defendant's licensed premises, the social club sold tickets for the occasion to its members at a price of \$5.00 per ticket. Such an arrangement is a sale as defined in R.S. 33:1-1(w), which provides in part: "Every delivery of an alcoholic beverage otherwise than by purely gratuitous title, including...serving with meals..." Cf. Renner, Bulletin 115, Item 4; Re Gross, Bulletin 863, Item 11. Such sale for resale constitutes a violation of R. S. 33:1-2, and the aiding and abetting thereof a violation of R. S. 33:1-52.

Defendant has a previous adjudicated record. Effective July 1, 1945, defendant's license was suspended for two days by the local issuing authority for permitting gambling (playing cards for money) on his licensed premises. Again, on April 26, 1949, defendant received a warning from the local issuing authority as a result of

his plea of guilty to an "hours" violation. In determination of the penalty I shall not take into consideration the dissimilar violation committed in 1945 because it occurred more than five years ago. Cf. Re Smidhum, Bulletin 755, Item 8.

Under all of the circumstances, I shall suspend defendant's license for a period of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 25th day of May, 1951,

ORDERED that Plenary Retail Consumption License C-5, issued by the Township Committee of Monroe Township to James J. Craparotta, t/a New Club Monroe, for premises E. Lincoln Avenue, Monroe Township (Middlesex Co.), be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. June 4, 1951, and terminating at 3:00 a.m. June 19, 1951.

ERWIN B. HOCK
Director.

9. DISCIPLINARY PROCEEDINGS - EMPLOYING A DISQUALIFIED PERSON (CRIMINAL) - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

LARRY CORBO'S INC.
213 Bloomfield Avenue
Newark 4, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-779, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Kalman Friedman, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On November 2, 1950 and prior thereto, you knowingly employed and had connected with you in a business capacity Ralph Falivino, a person who had been convicted in the United States District Court on or about May 27, 1949 and in the Passaic County (New Jersey) Court, Criminal Division, on or about May 12, 1950 of crimes involving moral turpitude, viz., in the United States District Court of the crimes of conspiracy and unlawfully maintaining and operating a distillery contrary to 18 USC 88 (now 371) and 26 USC 2810 (a) and 2833 (a) and in the Passaic County Court of the crimes of conspiracy and manufacturing alcoholic beverages without a license contrary to R. S. 2:119-1 and R.S. 33:1-2 and 50; in violation of Rule 1 of State Regulations No. 13."

The file herein discloses that on June 23, 1950, defendant was advised by me that, in my opinion, Ralph Falivino was ineligible to be employed on licensed premises because of his criminal record. In reply to said letter, George Feinman, who was then President of

defendant-licensee, advised me that Ralph Falivino was no longer associated with the licensed corporation and pledged full compliance with all laws and regulations governing the alcoholic beverage industry. Nevertheless, on November 2, 1950, ABC agents visited defendant's premises and observed the individual in question tending bar and ostensibly acting as manager of the licensed premises.

Despite any subsequent change of stockholders, as hereinafter set forth, the notice given to defendant corporation in June 1950 is clearly sufficient to warrant a finding that defendant knowingly employed a disqualified person. Hence I find defendant guilty as charged.

In alleged mitigation the attorney for defendant has called my attention to the fact that some of the present stockholders only recently acquired their interest in the corporation. It appears that in June 1950 one-half of the stock was held by George Feinman and his wife and the other half was held by Frank C. Ferruggia, a son-in-law of the disqualified person. In September 1950 George Feinman and his wife sold their shares to Frank and Angelina Markase, who on March 27, 1951, sold their shares to Augustine Formato and Augustine Formato, Jr. In September 1950 Frank C. Ferruggia sold his shares to Anthony Falivino, a brother of the disqualified individual. Under these circumstances I can find little, if anything, to mitigate the seriousness of the violation because I believe that the son-in-law and brother of Ralph Falivino were fully aware of the fact that he was disqualified from being employed by or connected in any business capacity whatsoever with the licensee.

Defendant has no prior adjudicated record. Ordinarily, the minimum penalty imposed in a case of this kind is ten days, less five days in the event of a plea of guilty or non vult. Re Horvath, Bulletin 882, Item 11. However, the violation herein was obviously deliberate in view of the previous warning given in June 1950. Under all the circumstances, I shall suspend defendant's license for a period of twenty days, less five days for the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 28th day of May, 1951,

ORDERED that Plenary Retail Consumption License C-779, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Larry Corbo's Inc., for premises 213 Bloomfield Avenue, Newark, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. June 4, 1951, and terminating at 2:00 a.m. June 19, 1951.

ERWIN B. HOCK
Director.

10. DISCIPLINARY PROCEEDINGS - PREDECESSOR-IN-INTEREST PERMITTING LOTTERY ON LICENSED PREMISES - PREDECESSOR-IN-INTEREST PERMITTING LICENSED PREMISES TO BE USED IN CONNECTION WITH AN ILLEGAL ACTIVITY RESULTING IN A CONVICTION IN A CRIMINAL PROSECUTION - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

THE GLASS BAR, INC. 151 First Street Hoboken, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-84, issued by the Board of Commissioners of the City of Hoboken.

Harold Krieger, Esq., by Benjamin H. Chodash, Esq., Attorney for Defendant-licensee. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant, present holder of the license in question, has pleaded non vult to charges alleging that (1) its predecessor-in-interest, Ferdinand Pisani, from whom it obtained its plenary retail consumption license by transfer on June 6, 1950, allowed the sale and offer for sale of tickets and participation rights in a lottery in and upon his licensed premises, in violation of Rule 6 of State Regulations No. 20; and (2) its predecessor-in-interest, Ferdinand Pisani, allowed the licensed premises to be used in furtherance of and in connection with an illegal activity, resulting in a conviction in a criminal prosecution, in violation of Rule 4 of State Regulations No. 20.

An examination of the file in the instant case discloses that on January 27, 1950, two law enforcement officers raided the licensed premises of Ferdinand Pisani, the previous licensee, and discovered on his person and in the licensed premises various tickets and participation rights in a lottery, commonly known as the "Italian lottery game". The said Ferdinand Pisani admitted that he had engaged in the illegal activity for a period of approximately four or five weeks prior to being discovered by the authorities. On February 2, 1951, said Ferdinand Pisani pleaded non vult in a County Court to unlawful possession of certain papers, slips, documents and memoranda pertaining to the business of lottery and lottery-policy, so-called, contrary to the provisions of R. S. 2:147-3b, and as a result thereof a fine was imposed by the court.

Although the license was transferred to defendant after the violations complained of in the instant case were committed, defendant's license is subject to any suspension which may be imposed herein. Rule 2 of State Regulations No. 16.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of twenty days, less five days' remission for the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 29th day of May, 1951,

ORDERED that Plenary Retail Consumption License C-84, issued by the Board of Commissioners of the City of Hoboken to The Glass Bar, Inc., 151 First Street, Hoboken, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. June 4, 1951, and terminating at 2:00 a.m. June 19, 1951.

ERWIN B. HOCK Director.

11. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

FLYERS RESTAURANT, INC.)
816 Haynes Avenue)
Newark 5, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-925, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Kessler & Kessler, Esqs., by Samuel I. Kessler, Esq., Attorneys for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On April 20, 1951, an ABC agent, in the course of a routine inspection of defendant's licensed premises, seized a 4/5 quart bottle labeled "Canadian Club Blended Canadian Whisky 90.4 Proof" when his field tests indicated a variance between the label thereon and the contents thereof. Subsequent analysis by the Division Chemist disclosed that the label on the seized bottle did not truly describe the contents thereof.

Defendant has no prior adjudicated record.

Finding no aggravating circumstances, I shall suspend the license for the minimum period in such cases, fifteen days. Re Rudolph, Bulletin 680, Item 1. Remitting five days because of the plea will leave a net suspension of ten days.

Accordingly, it is, on this 15th day of May, 1951,

ORDERED that Plenary Retail Consumption License C-925, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Flyers Restaurant, Inc., for premises 816 Haynes Avenue, Newark, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. May 21, 1951, and terminating at 2:00 a.m. May 31, 1951.

ERWIN B. HOCK
Director.

12. STATE LICENSES - NEW APPLICATIONS FILED.

Pennsylvania Transfer Co. of Philadelphia, Inc.
469 No. American St., Philadelphia 23, Pa.
Application for Transportation License filed May 29, 1951.

Josephine H. Baginski, t/a Liberty Bottling Works
Rear 1014 Chestnut Ave., Trenton, N. J.
Application for transfer of Transportation License from Josephine H. Baginski, Executrix of Estate of John Baginski, filed June 1, 1951.

Motor Freight Service Inc.
41 Cherry St., Cor. River St., Newark, N. J.
Application for Transportation License filed June 4, 1951.

Lawrence Warehouse Co.
Market and Fillmore Streets, Gloucester City, N.J.
Application for Public Warehouse License filed June 6, 1951.

ERWIN B. HOCK

13. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

BEN M. HORWECH)
701-703-705 Broadway)
Bayonne, N.J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-108, issued by the Board of Commissioners of the City of Bayonne.)

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James F. McGovern, Jr., Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he possessed on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulations No. 20.

On March 14, 1951, an agent of the Alcohol Tax Unit, Internal Revenue Service, United States Treasury Department, during a routine inspection of defendant's licensed premises, seized two 4/5 quart bottles labeled "Canadian Club Blended Canadian Whisky 90.4 Proof" when his field tests indicated a variance between the labels on the bottles and the contents thereof. Subsequent analysis by the Federal chemist disclosed that the contents of the seized bottles were not truly described on the labels thereof.

Defendant has a prior adjudicated record. On or about June 4, 1946, the local issuing authority found defendant guilty on a charge alleging that on December 6, 1945 he knowingly employed a disqualified person (criminal conviction) on his licensed premises. Because of the dissimilarity of the charges and the fact that the prior violation occurred more than five years ago, I shall not consider said record in aggravation. I shall suspend the license for fifteen days, the minimum in unaggravated illicit liquor cases. Re Rudolph, Bulletin 680, Item 1. Remitting five days because of the plea will leave a net suspension of ten days.

Accordingly, it is, on this 21st day of May, 1951,

ORDERED that Plenary Retail Consumption License C-108, issued by the Board of Commissioners of the City of Bayonne to Ben M. Horwech, for premises 701-703-705 Broadway, Bayonne, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. May 28, 1951, and terminating at 2:00 a.m. June 7, 1951.

James B. Hook
Director.