

STATE OF NEW JERSEY
 Department of Law and Public Safety
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL
 1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1485

December 5, 1962

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1. STATE REGULATIONS - REGULATION NO. 15A PROMULGATED.

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IMPLEMENTING LAW PROHIBITING DISCRIMINATION BY DISTILLERS,
IMPORTERS AND RECTIFIERS AGAINST WHOLESALERS.

NOTICE TO ALL MANUFACTURERS AND WHOLESALERS:

By P.L. 1942, Ch. 264 (R.S. 33:1-93.1 to 93.5), the Alcoholic Beverage Law was supplemented to provide that "There shall be no discrimination in the sale of alcoholic liquors by distillers, importers, and rectifiers of nationally advertised brands of alcoholic liquors to duly licensed wholesalers of alcoholic liquors in this state", and to afford aggrieved wholesalers a remedy by petition proceeding filed with the Commissioner (now Director) of Alcoholic Beverage Control.

Through the years since the adoption of such legislation, there have been very few petition proceedings filed thereunder. However, in view of the recently increasing number of such petitions being filed, and the fact that questions of procedure concerning the petition proceedings have been raised, I have promulgated, pursuant to R.S. 33:1-93.5 and R.S. 33:1-39, the following new Regulation to implement such legislation:

STATE REGULATION NO. 15A

PETITION PROCEEDINGS - DISCRIMINATION AGAINST WHOLESALERS

Rule 1. All actions by duly licensed New Jersey wholesalers seeking relief from the alleged discrimination in the sale of alcoholic liquors to them by distillers, importers or rectifiers of nationally advertised brands of alcoholic liquors shall be in the form of a petition to the Director setting forth the facts of alleged discrimination, the relief sought and the grounds therefor.

Rule 2. The petitioner or petitioners shall first serve a copy of the petition upon the respondent distiller, importer or rectifier. The original petition, together with an acknowledgment or affidavit of service, shall be filed with the Director forthwith.

Rule 3. Within five (5) days after service of the copy of the petition, each respondent shall file an answer with the Director, together with proof of service of a copy thereof on the petitioner or petitioners. The answer by the respondent or respondents shall include a statement as to whether the respondent or respondents have refused to sell to the petitioner or petitioners any amount of alcoholic liquor.

Rule 4. Upon the filing of the petition, the Director shall schedule a hearing and shall give each of the parties at least five (5) days notice of the time and place thereof.

Rule 5. Hearings shall be conducted by the Director or a duly designated hearer. Each party may be represented by an attorney admitted to practice in the courts of this State and

shall have the right to present his case by oral and documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Testimony shall be taken stenographically and transcribed in each case. Each party shall be afforded the opportunity to present argument, either orally before the hearer immediately upon the close of the evidence, or by written brief. Oral argument shall be limited to fifteen (15) minutes for each party, unless the hearer shall otherwise order. Briefs, if any, shall be submitted within the time fixed by the hearer. In cases where a hearer's report is not to be prepared, such fact shall be announced by the hearer at the close of the evidence. In other cases, the hearer shall, upon receipt of the transcribed record and briefs, if any, prepare a report containing recommended conclusions and order and file the original with the Director and forthwith transmit a copy, either personally or by mail, to the parties or their attorneys. Within ten (10) days of the receipt of the report, each party may file written exceptions and argument with the Director, together with proof of service of a copy thereof upon the other parties or their attorneys. Within five (5) days after such service, answering argument may be filed with the Director, together with proof of service of a copy thereof upon the other parties or their attorneys. Except as otherwise provided herein, no oral argument may be had before the Director unless, on his own motion, the Director decides to hear oral argument and notifies the parties or their attorneys of the date and place fixed therefor.

The hearer's report shall not be binding upon the Director and the Director's decision may, in whole or in part, adopt, modify or reject the report, provided, however, that no material change in the result recommended by the hearer shall be made by the Director without first affording the parties or their attorneys an opportunity to present oral argument before the Director. The decision of the Director shall be in the form of a written opinion setting forth his conclusions, together with supporting reasons therefor, and his order, if any. A copy of the opinion shall be mailed forthwith to the parties or their attorneys.

Any of the provisions of this Rule relating to the presentation of a party's case or argument, or to the procedure in connection with the hearer's report, may be waived by any party or his attorney.

Rule 6. The petitioner may apply to the Director for interlocutory relief by order to show cause, accompanied by affidavit or verified petition showing that the petitioner will probably suffer substantial and irreparable injury before final determination of the proceeding. If it appears from affidavit or verified petition that the petitioner will probably suffer immediate substantial and irreparable injury before a hearing can be had on the order to show cause, the Director may enter an ex parte order granting ad interim relief pending (1) the hearing on the order to show cause, or (2) for an extended period to which the respondent or respondents consent, or (3) until further order of the Director, provided the respondent or respondents are granted the right to move, on two (2) days' notice, to dissolve or modify said order. Upon return of the order to show cause, the Director may grant interlocutory relief if it appears that a substantial question of law or fact has been raised and that the petitioner will probably suffer substantial and irreparable injury before final determination of the proceeding.

Copies of all papers filed with the Director in connection with an application for interlocutory relief shall include proof of service thereof upon all the affected parties to the proceeding.

or their attorneys of record. Copies of all ex parte orders shall be served upon all the affected parties to the proceeding within the time designated in the order and proof of service thereof shall forthwith be filed with the Director. Hearings on the hereinbefore mentioned orders to show cause shall be scheduled as soon as practicable.

Rule 7. All persons, whether licensees or non-licensees, shall comply with the terms of any final, interlocutory or other order entered in these proceedings. In the event a respondent fails to comply with the terms of such order, the Director may, in addition to any other penalty provided by law, enter an order prohibiting any licensed wholesaler from purchasing, directly or indirectly, any alcoholic liquor product of such respondent until the Director finds that there has been compliance therewith.

WILLIAM HOWE DAVIS
DIRECTOR

Promulgated Friday, November 9, 1962.

Effective Friday, November 9, 1962.

Filed with the Secretary of State (N. J.) Friday, November 9, 1962.

2. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - HINDERING INVESTIGATION - PRIOR RECORD OF TRANSFEROR CONTINUED IN EMPLOY - LICENSE SUSPENDED FOR 240 DAYS.

In the Matter of Disciplinary Proceedings against)

ANGELO TACCETTA)
201 Bruce St. & 46 - 14th Ave.)
Newark 3, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-373, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Nicholas A. Ciufi, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on Sunday September 16, 1962, he (1) sold a pint bottle of wine for off-premises consumption, in violation of Rule 1 of State Regulation No. 38, and (2) hindered an investigation, viz., attempted concealment by a bartender of his true identity, in violation of R. S. 33:1-35.

Reports of investigation disclose that the bartender (referred to by another employee as "the boss") who made the sale was Augustine DeSimone who attempted to conceal his true identity by claiming his name was James DeMartino.

Although the licensee has no previous record, he is the transferee of Augustine DeSimone whose record of suspension of license is as follows:

1. By the Director of this Division for five days, effective July 15, 1957, for accepting orders for alcoholic beverages off

the licensed premises (Bulletin 1184, Item 5);

2. By the municipal issuing authority for fifteen days, effective January 4, 1960, for sale during prohibited hours in violation of State Regulation No. 38;

3. By the Director for one hundred eighty days, effective October 10, 1960, for (a) sale during license suspension, (b) sale on election day, (c) sale during prohibited hours in violation of State Regulation No. 38, and (d) hindering an investigation, viz., inciting patrons to assault ABC agents and destroy evidence (Bulletin 1362, Item 2);

4. By the Director for one hundred eighty days, effective April 8, 1961, for hindering an investigation, viz., refusal to admit ABC agents into the licensed premises (Bulletin 1389, Item 2).

(It may be noted that application for transfer of license to Charles Baldi (who, according to Division records, is the brother of Anthony Baldi, bartender-manager at the licensed premises) was made to the municipal issuing authority prior to the occurrence of the violations herein, which application was granted on September 19, 1962, subsequent to the occurrence of the violations but prior to the date upon which the charges were preferred, viz., September 26, 1962. In view of the institution of these proceedings, the transfer has not yet been endorsed upon the license certificate. Of course, any transferee of the license will take it subject to the penalty imposed herein. State Regulation No. 16, Rules 1, 2 and 3.)

The previous record of licensee's predecessor in interest, who was continued in the employ of the licensee, considered (Re DiTerlizzi, Bulletin 1441, Item 4) and the repetitive nature of the violations likewise considered, as well as the plea entered, the license will be suspended for two hundred forty days.

Accordingly, it is, on this 17th day of October, 1962,

ORDERED That Plenary Retail Consumption License C-373, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Angelo Taccetta for premises 201 Bruce Street and 46 - 14th Avenue, Newark, be and the same is hereby suspended for two hundred forty (240) days, commencing at 2:00 a.m. Wednesday, October 24, 1962, and terminating at 2:00 A.M. Friday, June 21, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

3. APPELLATE DECISIONS - SEIP AND HANNA v. FRENCHTOWN AND HUGHES.

LORETTA S. SEIP, EDWARD HANNA)
and JULIA HANNA,)

Appellants,)

v.)

MAYOR AND BOROUGH COUNCIL OF THE)
BOROUGH OF FRENCHTOWN, AND RICHARD)
T. HUGHES,)

Respondents.)

ON APPEAL
CONCLUSIONS
AND ORDER

John Dale Seip, Esq., Attorney for Appellants.
Herr and Fisher, Esqs., by Cowles W. Herr, Esq., Attorneys for
Respondent Mayor and Borough Council of the Borough of
Frenchtown.
William R. Stem, Esq., Attorney for Respondent Richard T. Hughes.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of the respondent Mayor and Council which, by resolution dated June 7, 1962, issued a plenary retail distribution license for the 1962-63 license year to respondent Richard T. Hughes for premises located at 22 Bridge Street, Frenchtown.

"Appellants, in their petition of appeal, allege that the action of the issuing authority was erroneous in that it improperly and mistakenly abused its discretion; that there is no need for an additional alcoholic beverage outlet in the Borough; and that it is not in the public interest to issue a plenary retail distribution license.

"The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15; and the transcripts of the proceedings before the issuing authority on May 22 and June 7, 1962, together with pertinent documents, were received in evidence and additional testimony was presented as provided by Rule 8 of said regulation.

"The evidence herein shows the following: Prior to the issuance of the license in question, the Borough of Frenchtown had issued a club license and two plenary retail consumption licenses. One plenary retail consumption license, with the so-called 'broad package privilege', is held by appellant Loretta S. Seip and the other, without the 'broad package privilege', by appellants Edward and Julia Hanna. On May 3, 1962, respondent issuing authority introduced and passed on first reading an ordinance amending an ordinance entitled 'An Ordinance Concerning Alcoholic Beverages adopted April 6, 1950, as amended by an ordinance adopted April 5, 1962.' The proposed ordinance read as follows:

'BE IT ORDAINED by the Mayor and Common Council of the Borough of Frenchtown:

'Section 1. Section 1 of the hereinabove entitled ordinance, as amended, is hereby amended to read as follows:

"1. Annual licenses fees shall be as follows:

Plenary Retail Consumption license - \$420.00

Plenary Retail Distribution license - \$2,000.00.

"Section 2. This ordinance shall take effect immediately upon final adoption and publication according to law.

Dated: June 7, 1962

(s) Sherwood L. Anderson, Jr., Mayor

Attest:

(s) J. W. McHenry, Clerk'

"Five applicants, including respondent Hughes, filed applications for the plenary retail distribution license and on May 22, 1962, a special meeting was held by respondent issuing authority to consider the objections filed by appellants and to ascertain the qualifications of the applicants to hold a liquor license. At the special meeting, appellants' attorney and a clergyman voiced objections to the issuance of a license to any of the applicants, contending that there was no need for an additional license in the Borough and that the ordinance as amended did not provide for the issuance of a license but merely established fees. The Mayor, who presided at the meeting, discountenanced their contention and refused to accept from the clergyman a petition signed by seventy-six persons objecting to the issuance of another license, stating that the petition was untimely presented. Four of the applicants then testified under oath respecting their qualifications to hold a license and were cross examined at length by appellants' attorney. Thereafter, the Mayor instructed the councilmen to further investigate the fitness of the applicants and the premises they sought to have licensed, prior to the next regular meeting of the council to be held on June 7, 1962.

"At the regular meeting of June 7, 1962, the ordinance was adopted on final reading. Thereafter, when each councilman had publicly indicated his choice of the applicant to whom the license should be issued, a resolution was adopted granting the license to respondent Hughes.

"The additional testimony presented by appellants at the hearing on appeal does not support their allegation that the action of respondent issuing authority was erroneous in issuing the distribution license to respondent Hughes. Rather, the testimony tends to revive on appeal that which was untimely advanced before the issuing authority, viz., that the license should not have been granted to any of the five applicants because the ordinance did not authorize the issuance of the license but merely fixed a fee for the license. As to this, it need only be remarked that the obvious purpose of a fee-fixing ordinance is to authorize the issuance of licenses pursuant thereto.

"It appearing that appellants were primarily interested in a determination respecting the validity of the ordinance, as evidenced by the representation made at the hearing that, prior to the filing of the appeal herein, they instituted an action in the Superior Court to contest the validity of said ordinance, it was deemed advisable to await the judgment of the Court before making a recommendation respecting the appeal herein.

"It now appears that on September 24, 1962, judgment was entered against appellants (who were the plaintiffs in the action in the Superior Court, Law Division) based upon the oral determination of Frank J. Kingfield, J.S.C., wherein he said:

'This is an action in lieu of prerogative writ to contest the validity of a municipal ordinance setting a license fee for a plenary retail distribution license. The ordinance as adopted, and which is in existence in the Borough of Frenchtown, has set forth plenary retail distribution license fee of \$2,000.00 for such a license. The plaintiff has challenged the validity of this ordinance and contends that it is arbitrary and unreasonable, that the municipal body failed to consider the fees in surrounding municipalities, the cost of regulation was not considered, and that it is a fee primarily for revenue and not for regulation.'

and after considering the facts and law applicable thereto, concluded:

'So, it is my judgment that where a municipality determines to set a plenary retail distribution license fee of \$2,000.00, which fee is within the statutory limits set by the legislature, that the courts, in the absence of any other circumstances, do not have the power to hold such a determination by the local body to be arbitrary and unreasonable.'

"The question as to the validity of the ordinance having been adjudicated by the Court and having considered the evidence adduced herein, I find no evidence to indicate that respondent Hughes is not a fit person to hold the license in question or that the Mayor and members of the Council were improperly motivated in their action.

"I further find that respondent Mayor and Council, in their sound discretion, considered that there was a need for a plenary retail distribution license in the Borough and, as the governing body, adopted an ordinance pursuant to which the license could be issued.

"I further find that no one was restricted by the issuing authority from presenting his objections to the issuance of the license to respondent Hughes. If anyone felt aggrieved in that respect, he had full opportunity to present his grievance at the hearing on appeal, but failed to do so.

"I conclude, therefore, that appellants have not sustained the burden imposed upon them of establishing that the action of the issuing authority was erroneous and I recommend that an order be entered affirming the action of respondent Mayor and Council in granting the plenary retail distribution license to respondent Richard T. Hughes, and that the appeal herein be dismissed."

Written exceptions to the Hearer's Report and written argument in substantiation of the exceptions were filed with me by appellants' attorney within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including the transcript of the testimony on appeal, the exhibits, the memoranda of the attorneys for the respective

parties hereto, the Hearer's Report and the exceptions and argument with respect thereto, I concur in the findings and conclusion of the Hearer and adopt his recommendation.

Accordingly, it is, on this 18th day of October, 1962,

ORDERED that the action of respondent Mayor and Borough Council be and the same is hereby affirmed and that the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

4. APPELLATE DECISIONS - HIGHLANDER HOTEL CORP. v. HIGHLANDS.

HIGHLANDER HOTEL CORP., T/A)	
HIGHLANDER HOTEL CORP.,)	
Appellant,)	
v.)	ON APPEAL
)	CONCLUSIONS
)	AND ORDER
BOROUGH COUNCIL OF THE BOROUGH)	
OF HIGHLANDS,)	
Respondent.)	

Reussille, Cornwell, Mausner & Carotenuto, Esqs., by John A. Flood, Jr., Esq., Attorneys for Appellant.
 Roberts, Pillsbury & Carton, Esqs., by John M. Pillsbury, Esq., Attorneys for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby on June 27, 1962, it suspended appellant's license for a period of fifteen days effective July 1, 1962, after finding appellant guilty of a charge alleging sale of alcoholic beverages to a 19-year-old minor and permitting the consumption of alcoholic beverages by said minor in the licensed premises, in violation of Rule 1 of State Regulation No. 20. Appellant's premises are located at 1 Navesink Avenue, Highlands.

"Upon the filing of the appeal an order was entered by the Director on June 29, 1962, staying respondent's order of suspension until further order herein. R.S. 33:1-31.

"Appellant in its petition of appeal alleges that, because of the insufficiency of the evidence to support the findings and penalty, the action of respondent should be reversed.

"Respondent in its answer avers that its action in finding the appellant guilty was based upon legal evidence presented at the hearing.

"It was agreed by the parties to this appeal, with the approval of the Director, that the appeal herein be presented solely upon the stenographic transcript of the proceedings held before the respondent Borough Council. Rule 8 of State Regulation No. 15.

"It appears from the testimony of Sergeant John J. Mackel of the Highlands Police Department that, in response to a radio

call, he went to appellant's premises; that, as a result of an inquiry, one Private Michael McAleer identified himself as the person who made the call and then pointed out a youth drinking beer from a glass; that, when the person (subsequently identified as Eugene ---) said he was 19 years of age, he (Sergeant Mackel) seized the glass containing beer which at that time was in front of him; that Eugene pointed to John Fabre as the man who served him the beer.

"John Fabre (a Technical Sergeant in the U.S. Air Force) testified that he was on duty as bartender on March 1, 1962, and, although he remembered seeing Eugene on the date in question, he did not recall serving beer to him; that, when Police Sergeant Mackel entered the appellant's premises, Eugene had beer in front of him.

"Eugene --- testified that he is 19 years old and a member of the U. S. Air Force; that, when Sergeant Mackel arrived, he was consuming beer and that the beer in front of him was taken by Sergeant Mackel; that, before serving him, he recalled bartender Fabre inquiring concerning his age and, in response thereto, he displayed an altered birth certificate belonging to a friend, which certificate he destroyed when McAleer told him that police were coming.

"Sergeant Fabre, called in rebuttal, testified that he did not recall asking Eugene for proof of his age as he 'was very busy that night. I was checking i.d. cards or identification cards left and right. I don't remember who I checked and who I didn't check.'

"I am satisfied, after considering the testimony of the witnesses, that Eugene (a minor) was served and consumed beer in appellant's licensed premises on March 1, 1962. Eugene testified that he was served beer by Sergeant Fabre on the date in question and that he consumed it on appellant's licensed premises. Police Sergeant Mackel said he saw Eugene drinking and thereafter seized the glass containing beer which was in front of him at the time. In so far as Sergeant Fabre is concerned, he had no recollection of serving Eugene but testified that the said minor had beer in front of him.

"Whether the production of a false birth certificate before service of alcoholic beverages warrants mitigation of penalty rests within the sound discretion of the respondent. The power of the Director to reduce or modify a penalty imposed by a local issuing authority will be sparingly exercised and only with the greatest caution. Robinson v. Newark, Bulletin 54, Item 2. I might add that the respondent, in fixing the suspension, was free to consider the fact that appellant had made some effort to prevent sale to the minor by requesting Eugene to produce proof of his age on the occasion in question. It is apparent, however, that the bartender employed by appellant failed to follow the required procedure outlined in R.S. 33:1-77 to establish a defense to the charge. In connection therewith, attention is directed to the Special Note on page 77 of the Rules and Regulations (effective January 1, 1957) of the Division of Alcoholic Beverage Control which states:

'In disciplinary proceedings involving alleged sale of alcoholic beverages to a minor in violation of Rule 1 of State Regulation No. 20, the defense provided by R.S. 33:1-77 is available to the licensee. However, to establish the defense, it must affirmatively

appear (a) that the minor falsely represented himself in writing to be of age; and (b) that the minor's appearance was such that an ordinary prudent person would believe him to be of age; and (c) that the sale was made in reliance upon such written representation and appearance and in the reasonable belief that the minor was of age. Hence it is not a defense that mere verbal inquiry may have been made as to the age of the minor or that the minor had verbally misrepresented his age or that the minor had displayed some document (such as a driver's license, birth certificate, military identification card, selective service registration certificate, or any other similar document) which represented his age as over 21. The representation in writing required by the Alcoholic Beverage Law is a writing made by the minor at or prior to the time of sale or service. Such a writing must be signed by the minor in the presence of the licensee or his employee and one in which the minor gives his name, address, age, date of birth and, by signing the writing, makes a statement that he is making the representation as to his age to induce the licensee to make the sale, after the writing has been signed, the licensee should require that the person signing the representation adequately identify himself as that person and thus affirmatively avoid the acceptance of these representations from persons using fictitious names, addresses and ages. The signed representation should then be retained by the licensee. ***'

"Moreover, in Sportsman 300 v. Board of Commissioners of the Town of Nutley and The Division of Alcoholic Beverage Control, 42 N.J. Super. 488, at 493, the per curiam decision of the Appellate Division of the Superior Court of New Jersey, in a case similar to the matter now under consideration, ruled that, in order to constitute the statutory defense to an allegation charging sale of alcoholic beverages to a minor, 'the accused must establish not some but all of the factual elements enumerated in the enactment relating thereto.'

"Appellant has failed to sustain the burden of establishing that the action of respondent was erroneous. Rule 6 of State Regulation No. 15. It is recommended, therefore, that appellant be found guilty of the charge in question, and that an order be entered affirming the action of respondent, vacating the order dated June 29, 1962, which stayed the suspension imposed by the respondent herein, and fixing the effective dates for the fifteen-day suspension heretofore imposed by respondent."

Written exceptions to the Hearer's Report and written argument in substantiation thereof were filed with me by the appellant's attorneys, pursuant to Rule 14 of State Regulation No. 15.

Having carefully examined and considered the transcripts containing the testimony presented by the witnesses before the respondent Borough Council, the Hearer's Report, the exceptions of appellant's attorneys and written argument thereto, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 24th day of October, 1962,

ORDERED that the action of respondent be and the same is hereby affirmed, and that the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that the fifteen-day suspension heretofore imposed by respondent, and stayed during the pendency of this appeal, be restored and reinstated against the License C-26 held by Highlander Hotel Corp., t/a Highlander Hotel Corp., for premises 1 Navesink Avenue, Highlands, to commence at 2:00 a.m. Wednesday, October 31, 1962, and to terminate at 2:00 a.m. Thursday, November 15, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

5. CONVICTION OF CRIME - EXPUNGEMENT - EFFECT UPON ANSWER TO QUESTION 33 IN LICENSE APPLICATION - PRIOR BULLETIN ITEM SUPERSEDED.

October 25, 1962

Harold Kaplan, Esq.
Lakewood, N. J.

Dear Mr. Kaplan:

This acknowledges your letter of October 18th inquiring whether The Manhattan, Inc., t/a Knickerbocker Cafe, 305 Sixth Street, Lakewood, must continue to answer Question 33 in the application for license which asks "Have you or has any person mentioned in this application ever been convicted of any crime?", in the affirmative in view of the fact that one of its officers, who had been convicted of crime, has now obtained an order from the Ocean County Court expunging his record of conviction of crime in accordance with N.J.S. 2A:164-28.

As you know, the cited law provides that following entry of such order, the person convicted "...shall be forthwith thereafter relieved from such disabilities as may have heretofore existed by reason thereof..." However, such order does not have the attributes of a full pardon. Op. Atty. Gen., Feb. 26, 1953, No. 5.

Accordingly, the licensee must continue to answer Question 33 in the affirmative and disclose the fact of prior conviction of the officer in question although it may properly also indicate the entry of the order of expungement of the conviction, together with the affirmative answer.

To the extent that ruling in Re Case No. 178, Bulletin 206, Item 11, indicates to the contrary, it is hereby superseded.

For completeness, you may wish to be advised that such order of expungement does have the attribute of removing any ineligibility for license or permit that may have existed by reason of the conviction. See Re Case No. 739, Bulletin 840, Item 3; Re Holiday Inn, Inc., Bulletin 944, Item 1; Re Case No. 1137, Bulletin 1023, Item 7.

WILLIAM HOWE DAVIS
DIRECTOR

6.

ACTIVITY REPORT FOR OCTOBER 1962

ARRESTS:		
Total number of persons arrested - - - - -		19
Licenses and employees - - - - -	10	
Bootleggers - - - - -	9	
SEIZURES:		
Stills - over 50 gallons - - - - -		1
Mash - gallons - - - - -		785
Distilled alcoholic beverages - gallons - - - - -		3,867
Wine - gallons - - - - -		22,816
Brewed malt alcoholic beverages - gallons - - - - -		14,345
RETAIL LICENSEES:		
Premises inspected - - - - -		952
Premises where alcoholic beverages were gauged - - - - -		867
Bottles gauged - - - - -		13,088
Premises where violations were found - - - - -		84
Violations found - - - - -		102
Reg. #38 Sign not posted - - - - -	28	Probable front - - - - - 1
Unqualified employees - - - - -	27	Other mercantile business - - - - - 1
Application copy not available - - - - -	18	Other violations - - - - - 23
Prohibited signs - - - - -	4	
STATE LICENSEES:		
Premises inspected - - - - -		15
License applications investigated - - - - -		11
COMPLAINTS:		
Complaints assigned for investigation - - - - -		410
Investigations completed - - - - -		424
Investigations pending - - - - -		162
IDENTIFICATION:		
Criminal fingerprint identifications made - - - - -		19
Persons fingerprinted for non-criminal purposes - - - - -		248
Identification contacts made with other enforcement agencies - - - - -		214
Motor vehicle identifications via N.J. State Police-teletype - - - - -		5
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities - - - - -		9
Violations involved - - - - -		11
Sale during prohibited hours - - - - -	5	Failure to close premises during prohibited hours - - - - - 2
Sale to minors - - - - -	4	
Cases instituted at Division - - - - -		17
Violations involved - - - - -		28
Possessing liquor not truly labeled - - - - -	5	Filing false tax report - - - - - 1
Sale to minors - - - - -	5	Unauthorized transportation - - - - - 1
Sale during prohibited hours - - - - -	4	Conducting business as a nuisance - - - - - 1
Hindering investigation - - - - -	2	Permitting foul language on premises - - - - - 1
Fraud and front - - - - -	1	Fraud in application - - - - - 1
Failure to file notice of change in application - - - - -	1	Permitting immoral activity on prem. - - - - - 1
Purchase from improper source - - - - -	1	Violation of special condition - - - - - 1
Possessing illicit liquor - - - - -	1	Failure to have copy of license appl. on premises - - - - - 1
Cases brought by municipalities on own initiative and reported to Division - - - - -		27
Violations involved - - - - -		36
Sale to minors - - - - -	15	Permitting lottery activity (numbers) on premises - - - - - 1
Sale during prohibited hours - - - - -	6	Permitting person of ill repute on prem. - - - - - 1
Failure to close prem. during proh. hrs. - - - - -	5	Employee working while intoxicated - - - - - 1
Permitting brawls on premises - - - - -	2	Conducting business as a nuisance - - - - - 1
Allowing minor in barroom unaccompanied by parent or guardian (local reg.) - - - - -	1	Permitting immoral activity on prem. - - - - - 1
Hindering investigation - - - - -	1	Employing bartender w/o permit (local reg.) - - - - - 1
HEARINGS HELD AT DIVISION:		
Total number of hearings held - - - - -		39
Appeals - - - - -	6	Seizures - - - - - 3
Disciplinary proceedings - - - - -	22	Orders to show cause - - - - - 2
Eligibility - - - - -	6	
STATE LICENSES AND PERMITS ISSUED:		
Total number issued - - - - -		2,186
Licenses - - - - -	5	Social Affair permits - - - - - 666
Solicitors' permits - - - - -	49	Miscellaneous permits - - - - - 181
Employment permits - - - - -	245	Transit insignia - - - - - 253
Disposal permits - - - - -	58	Transit certificates - - - - - 34
Wine Permits - - - - -	695	
OFFICE OF AMUSEMENT GAMES CONTROL:		
Licenses issued - - - - -	1	Premises inspected - - - - - 1
Enforcement files established - - - - -	73	

WILLIAM HOWE DAVIS
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

November 5, 1962

ALIENS - EFFECT OF TREATIES BETWEEN THE UNITED STATES AND OTHER COUNTRIES
AFFORDING RECIPROCAL TRADE PRIVILEGES TO THEIR NATIONALS - REVISED LIST OF
TREATY COUNTRIES

The New Jersey Alcoholic Beverage Law (R.S. 33:1-25) prohibits any alien from holding any alcoholic beverage license and prohibits an alien (except in limited instances involving hotels or airports) from owning more than 10% of the shares of stock in any corporate retail licensee. The law (R.S. 33:1-26) further prohibits the employment of any alien upon licensed premises unless such alien has obtained an employment permit from the Division of Alcoholic Beverage Control.

The foregoing provisions of the New Jersey Alcoholic Beverage Law are, however, necessarily superseded in those instances where the United States has entered into treaties with various foreign countries whereby their nationals are afforded the same trade privileges in the United States as our own citizens and, conversely, citizens of the United States are afforded the same trade privileges of nationals of the foreign countries while our citizens are abroad. Accordingly, nationals of those countries are exempt from the above restrictions against aliens. See Re Guskind, Bulletin 130, Item 5; Re McGuigan, Bulletin 228, Item 2; Re Sacks, Bulletin 942, Item 9.

Since the promulgation on June 15, 1961 (subsequent to Bulletin 1083, Item 4) of a list of treaty countries, additional treaties have become effective with respect to France, Muscat and Oman and Viet-Nam.

Accordingly, I am herewith setting forth a newly revised list of all countries with which the United States has treaties of the type in question. Nationals of the countries appearing on this list are not required to obtain employment permits from this Division and are eligible to hold alcoholic beverage licenses and to be stockholders in corporations holding retail licenses notwithstanding their lack of United States citizenship, assuming that they are qualified in all other respects under R.S. 33:1-25.

ARGENTINA	HONDURAS
AUSTRIA	IRAN
BELGIUM	IRELAND
BOLIVIA	ISRAEL
BORNEO	ITALY
CHINA	JAPAN
COLUMBIA	KOREA
COSTA RICA	LATVIA
DENMARK	LIBERIA
ESTONIA	MUSCAT and OMAN
ETHIOPIA	NETHERLANDS (HOLLAND)
FINLAND	NICARAGUA
FRANCE	NORWAY
GERMANY	PAKISTAN
GREAT BRITAIN, including nationals of Scotland and other British territory in Europe, but not including nationals of British territory not in Europe, such as Canada.	PARAGUAY
GREECE	SPAIN
HOLLAND (NETHERLANDS)	SWITZERLAND
	THAILAND
	TURKEY
	VIET-NAM
	YUGOSLAVIA

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

ENGLEWOOD TAVERN & RESTAURANT, INC.)
36 Engle Street)
Englewood, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-1, issued by the Common)
Council of the City of Englewood.)

Robert W. Wolfe, Esq., Attorney for Licensee.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on August 15, 1962, it possessed an alcoholic beverage in one bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

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. Re Kalafut, Bulletin 1476, Item 11.

Accordingly, it is, on this 22d day of October, 1962,

ORDERED that Plenary Retail Consumption License C-1, issued by the Common Council of the City of Englewood to Englewood Tavern & Restaurant, Inc. for premises 36 Engle Street, Englewood, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. Monday, October 29, 1962, and terminating at 2:00 a.m. Saturday, November 3, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

10. 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)

STEPHEN GALAMB, JR.)
t/a GALAMB'S TAVERN)
27-33 Dayton Avenue)
Passaic, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-23, 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.

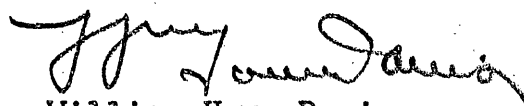
BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on October 3, 1962, at 10:25 p.m., he sold six cans of beer 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 Suk, Bulletin 1477, Item 5.

Accordingly, it is, on this 29th day of October, 1962,

ORDERED that Plenary Retail Consumption License C-23, issued by the Board of Commissioners of the City of Passaic to Stephen Galamb, Jr., t/a Galamb's Tavern, for premises 27-33 Dayton Avenue, Passaic, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. Monday, November 5, 1962, and terminating at 3:00 a.m. Thursday, November 15, 1962.



William Howe Davis
Director