

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

BULLETIN 1054

MARCH 24, 1955.

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - MEYER AND STEINBERG v. CAMDEN AND MAZER.
2. APPELLATE DECISIONS - CASTRO AND RODRIGUES v. NEWARK.
3. APPELLATE DECISIONS - DUNN ET ALS. v. MILLBURN TOWNSHIP AND THE RACQUETS CLUB OF SHORT HILLS.
4. DISCIPLINARY PROCEEDINGS (Westwood) - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - SALE IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - SALE DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Long Branch) - SALES TO MINORS - NO LOCUS POENITENTIAE INTERVENED - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
6. ACTIVITY REPORT FOR FEBRUARY 1955.
7. DISCIPLINARY PROCEEDINGS (Union City) - SALES TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Garfield) - WINE WHOLESALE LICENSEE - VIOLATION OF RULE 4(a) OF STATE REGULATIONS NO. 39 - LICENSE SUSPENDED FOR 5 DAYS.
9. DISCIPLINARY PROCEEDINGS (Union City) - SALES TO MINORS - PRIOR RECORD - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Hoboken) - ILLEGAL SITUATION CORRECTED - PRIOR SUSPENSION FOR BALANCE OF TERM LIFTED.
11. DISCIPLINARY PROCEEDINGS (National Park) - SALES TO MINORS - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
12. DISCIPLINARY PROCEEDINGS (Woodbridge Township) - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
13. STATE LICENSES - NEW APPLICATIONS FILED.

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

BULLETIN 1054

MARCH 24, 1955.

1. APPELLATE DECISIONS - MEYER AND STEINBERG v. CAMDEN AND MAZER.

JOSEPH F. MEYER and)
JACK STEINBERG,)

Appellants,)

-vs-)

ON APPEAL
CONCLUSIONS AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY)
OF CAMDEN and ISADOR MAZER,)

Respondents.)

William T. Cahill, Esq., Attorney for Appellants.
Norman Heine, Esq., by Louis L. Goldman, Esq., Attorney for
Respondent Municipal Board of Alcoholic Beverage Control.
Vincent L. Gallaher, Esq., Attorney for Respondent-licensee.
Joseph W. Cowgill, Esq., Attorney for Objectors.

BY THE DIRECTOR:

This is an appeal from the action of respondent Board on August 19, 1954, whereby it granted, by a 2 to 1 vote, respondent Mazer's application for a person-to-person and place-to-place transfer of a plenary retail consumption license from Stanley Liquor Co. for premises 1016 South 4th Street to Mazer for premises 210 Marlton Avenue.

Appellants' Petition of Appeal alleges that the Board's action was erroneous because the licensee's plans and specifications (for a building to be constructed) did not comply with Rule 2 of State Regulations No. 6; there is no public need for an additional outlet in the neighborhood to which the transfer is sought; the transfer will greatly impair real estate values in said neighborhood which is essentially residential and it will create a traffic hazard and other dangers to the residents of that area.

Respondent Mazer, in his Answer, denied these allegations. No Answer was filed by respondent Board.

At the hearing on this appeal three licensees testified in opposition to the transfer. Primarily, their objection is based upon their claim that the area to which the transfer is sought is presently more than adequately served by existing licensees. They introduced a map showing 14 retail licenses (9 plenary retail consumption licenses without the "broad package privilege", 2 such licenses with that privilege and 3 plenary retail distribution licenses) within the general area. Most of these licensed premises are concentrated on Federal Street approximately three blocks from Mazer's proposed new location at 210 Marlton Avenue (also known as Marlton Pike). From the testimony of the objectors it appears that the general neighborhood (off Federal Street) is residential but it was admitted that Marlton Pike has both residential and business properties. It was also admitted that there is a relatively new housing project and some relatively new homes in the area and that these are closer to Mazer's proposed new location than to the licensees on Federal Street.

The Secretary of respondent Board testified that no objections were received by the Board until August 17, 1954, the first

date upon which Mazer's application for transfer was considered by the Board. On that day a letter from the president of a nearby restaurant corporation and a petition containing 21 names, both opposing the transfer, were received by the Board. The minutes of that meeting disclose that two persons spoke in opposition to the transfer; that Mazer also spoke and that counsel for the proposed transferor was present. No further hearing was held and the action complained of was taken two days later, August 19, 1954, at which time, apparently without discussion, the application for transfer was granted. Chairman Osborn and Board member Werner voted to grant the application while Board member Eichel voted to deny it for the reason that "this location is a spearhead into a very fine residential section". The Secretary further testified that the Board members visited the neighborhood before voting on the application.

Mazer testified that his proposed new location is more than 700 feet from the premises of the nearest of the three licensees who testified in opposition to the transfer; that the housing project is less than 300 feet from his premises; that his premises are closer to the housing project and closer to nearly 100 new homes built within the last five years than the other licensees and that the people living there would have to pass his premises to go to the premises of the other licensees. He further testified that Marlton Pike is a heavily traveled through street having both residences and businesses; that his premises abut a parking lot of a large market; and that he intends to conduct a barroom and a luncheonette and to sell package goods upon the licensed premises. He admitted that the proposed site is in a different section of the city than the former location of the proposed transferor on South 4th Street. It appears to be generally conceded that the two premises are several miles apart.

After much difficulty and several adjournments Board members Eichel and Werner appeared and testified. Both took the position that their action was quasi-judicial in nature and that they should not be called upon to explain their vote. However, each took the witness stand and answered some questions on this subject but declined to answer others. The former testified that he lives near the proposed new location and knows the neighborhood and that he believed that there was no need for an additional license in that area. The latter testified that he lives a mile from the proposed new premises; that he passes it at least once a week; that he viewed the location and observed the other licensed premises in the area; that he considered the surrounding area and its residential and business features; that he saw no licensed premises near the housing project and that, among other things, he had considered the question of public necessity and convenience and had voted to grant the application.

Counsel for appellants and objectors filed a Memorandum contending that (1) respondent Board failed to hold a hearing on the objections as required by Rule 8 of State Regulations No. 6; (2) no evidence was presented on the appeal to show a need for the transfer; and (3) the failure of the Board members to submit to cross-examination was prejudicial to appellants.

Counsel for respondents, in their Memorandum, deny these allegations.

As to (1), respondents claim that a hearing was, in fact, held and that appellants and the objectors are in no position to complain. It is unnecessary to determine this question since the rights of appellants and the objectors have been fully protected by this appeal which was heard de novo. Empire Liquor Co. et als. v. Newark et al., Bulletin 1031, Item 2; Eana, Inc. v. Pleasantville, Bulletin 1024, Item 2.

As to (2), it is apparent on the record that some testimony was adduced at the hearing on this appeal on the question of public

necessity and convenience. Respondent Mazer testified that he thought there was a need for such a license and referred to the nearby housing project and some homes built within the last five years and testified that his place would be nearest to them. In addition, each of the two Board members who testified asserted that he had considered the question of public need. While they disagreed in their ultimate conclusions on the subject, the record shows that they considered the question. Thus, the instant case is different from Elliott v. Newark et al., Bulletin 1042, Item 2 (cited in appellants' Memorandum) where the record was devoid of any such proof.

As to (3), the courts have recognized that the law entrusts the local issuing authority with a discretion as to the transfer of a liquor license and that, on appeal, the Director will not interfere unless there has been a manifest mistake, clearly unreasonable action or some untoward impropriety. Rajah Liquors v. Div. of Alcoholic Bev. Control, 33 N. J. Super. 598 (App. Div. 1955). While the discretionary powers of the local issuing authority are very broad and the burden of establishing that its action was erroneous and should be reversed rests with the appellant, the presumption in favor of the validity of the action of such issuing authority is not conclusive, Ways and Witteborn v. Egg Harbor et als., Bulletin 951, Item 3; Olko v. Saddle River et al., Bulletin 914, Item 3, and the reasonableness of its action may properly be questioned by any aggrieved person. R. S. 33:1-22. In such case, while there is no set legal standard as to the extent of such inquiry, it would seem clear that, in all fairness, the aggrieved party should be afforded some reasonable opportunity to inquire into the considerations which led to the action complained of. In the instant case two of the members of respondent Board submitted themselves to examination, although somewhat limited. Under all of the circumstances I cannot find that either the appellants or the objectors have been prejudiced.

Appellants' contention with respect to the adequacy of the plans and specifications is without merit. An examination of the detailed plans showing type of construction and materials to be used demonstrates that the purpose of the requirement of Rule 2 of State Regulations No. 6, i.e., to apprise the issuing authority and any other interested persons of the nature and extent of the proposed structure, has been met.

As has already been indicated, it has long been held that the question of whether or not a license should be permitted in a particular area or in a particular location is a matter within the sound discretion of the issuing authority and that the Director's function on appeal is not to substitute his opinion for that of the issuing authority but rather to determine whether reasonable cause exists for its opinion and, if so, to affirm, irrespective of his personal views. Rafalowski v. Trenton, Bulletin 155, Item 8; Northend Tavern, Inc. v. Northvale et al., Bulletin 493, Item 5; Baker et al. v. Newark et als., Bulletin 1018, Item 1. Redfield v. Long Branch et al., Bulletin 1027, Item 1.

The burden of establishing that respondent Board's action was erroneous and should be reversed rests with the appellant. Rule 6 of State Regulations No. 15.

After considering, most carefully, all of the evidence and all of the facts and circumstances in this case, I find that appellants have failed to sustain the burden of establishing that respondent Board's action was erroneous and should be reversed.

Accordingly, it is, on this 3rd day of March, 1955,

ORDERED that the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - CASTRO AND RODRIGUES v. NEWARK.

MANUEL daSILVA CASTRO and)
 CARLOS RODRIGUES,)
 Appellants,)

-vs-)

MUNICIPAL BOARD OF ALCOHOLIC)
 BEVERAGE CONTROL OF THE CITY)
 OF NEWARK,)

Respondent.)

ON APPEAL
 CONCLUSIONS AND ORDER

 Morris Goldsmith, Esq., Attorney for Appellants.
 Shanley & Fisher, Esqs., by Harold H. Fisher, Esq., Associate
 Counsel for Appellants.
 Vincent P. Torppey, Esq., by Nicholas Albano, Esq., Attorney
 for Respondent.

BY THE DIRECTOR:

This is an appeal from respondent's action on November 24, 1954, whereby it denied appellants' application for a person-to-person transfer to appellants of a plenary retail consumption license held by Eva's Tavern, Inc., for premises 104 Magazine Street, Newark.

On October 27, 1954, said license was suspended by the State Director for fifty days upon finding the licensee (Eva's Tavern, Inc.) guilty on charges alleging (1) concealment of applicant Castro's undisclosed interest in its corporate stock, and (2) the unlawful exercise by Castro of the rights and privileges of the license and upon the licensee's plea of non vult to other charges involving an undisclosed chattel mortgage. Re Eva's Tavern, Inc., Bulletin 1037, Item 3. The Conclusions and Order in that case recited that Castro had become a naturalized citizen of this country and had become the owner of seventy per cent. of the stock of the licensee corporation. Such change in ownership of corporate stock does not require approval by the issuing authority as is the case with transfers or renewals of licenses. Written notice to the issuing authority of such change within ten days thereafter is all that is required. R.S. 33:1-34.

Respondent took the position that, since Castro had "lent himself to a scheme" to acquire an interest in the business while disqualified, thus exhibiting a disregard for the law, it would not approve him as a licensee.

Counsel for appellants contended that this action was unreasonable and that it extended "indefinitely" the penalty previously imposed by the Director, as aforementioned, which penalty must be viewed as adequate.

No one is entitled to a license to sell alcoholic beverages as a matter of right. Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946). Nor is there any inherent right to transfer such a license to other persons or premises. The issuing authority, in the exercise of its discretion, may grant or deny such transfer. If denied on reasonable ground, such action will be affirmed. Fafalak v. Bayonne, Bulletin 95, Item 5; VanSchoick v. Howell, Bulletin 120, Item 6; Masarik et al. v. Milltown, Bulletin 283, Item 10; Turf Club Bar, Inc. v. Asbury Park, Bulletin 792, Item 5.

Proper liquor control dictates that an issuing authority be free, within the confines of a sound discretion, to determine whether or not a person is worthy of holding a license and it is entirely competent for such issuing authority to confine its

selection of licensees to those who have clearly demonstrated that they are worthy to receive the privilege of a license, and its determination should be given considerable weight on appeal. Sudol v. Wallington, Bulletin 276, Item 7; Eana, Inc. v. Pleasantville, Bulletin 1024, Item 2.

The contention that respondent's action extends, indefinitely, the penalty previously imposed by the Director and that such penalty must be viewed as adequate is unsound. It is within respondent's discretion, in the first instance, to grant or deny a license even after earlier disciplinary action by the State Director has resulted in a suspension rather than a revocation of the license. Cf. Zicherman v. Driscoll, supra. Furthermore, respondent's action on the application for transfer of the license was not to penalize or punish the applicants as is the case with a suspension of the license but, rather, to protect the public. Cf. Kaplan v. Newark, Bulletin 269, Item 6.

The burden of establishing that respondent's action was erroneous and should be reversed rests with appellants. Rule 6 of State Regulations No. 15. Under all of the facts and circumstances in this case, I find that appellants have failed to sustain this burden.

Accordingly, it is, on this 7th day of March, 1955,

ORDERED that the action of respondent Municipal Board of Alcoholic Beverage Control of the City of Newark be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

3. APPELLATE DECISIONS - DUNN ET ALS. v. MILLBURN TOWNSHIP AND THE RACQUETS CLUB OF SHORT HILLS.

JOSEPH P. DUNN, MYRON BAY,)
JOHN P. COFFIN and JAMES)
R. E. OZIAS,)

Appellants,)

-vs-

ON APPEAL
O R D E R

TOWNSHIP COMMITTEE OF THE)
TOWNSHIP OF MILLBURN, and THE)
RACQUETS CLUB OF SHORT HILLS,)

Respondents.)

Joseph P. Dunn, Esq., by Thomas F. Scully, Esq., Attorney for Appellants.

Reynier J. Wortendyke, Jr., Esq., Attorney for Respondent Township Committee.

Milton, McNulty & Augelli, Esqs., by John Milton, Jr., Esq., Attorneys for Respondent The Racquets Club.

BY THE DIRECTOR:

This appeal was filed from the action of respondent Township Committee whereby it issued a plenary retail consumption license for the present licensing year to respondent The Racquets Club of Short Hills. The premises in question are located at 162 Hobart Avenue, Short Hills, Township of Millburn.

Subsequent to the hearing held herein the attorney for appellants advised me in writing that his clients desire to discontinue

the appeal. No reason appearing why the request should not be granted,

It is, on this 3rd day of March, 1955,

ORDERED that the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

KC
LHP

- 4. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - SALE IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - SALE DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MARSAM QUALITY FOOD & LIQUOR CENTER INC.)
32 Westwood Avenue)
Westwood, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-2, issued by the Borough Council of the Borough of Westwood.)

Marsam Quality Food & Liquor Center Inc., by Morris Nussman, Pres. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that (1) it sold alcoholic beverages at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulations No. 30; (2) it sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38; (3) it sold alcoholic beverages during prohibited hours, in violation of a local ordinance.

The file herein discloses that at 11:20 a.m. Sunday morning, January 30, 1955, ABC agents observed two men enter defendant's licensed premises. One agent followed and saw the clerk accept from one of the men four one-dollar bills in payment for a package which was taken off the premises. The agent, joining a fellow agent outside, identified himself to the man who surrendered a paper bag which contained a 4/5 quart bottle of Gordon Distilled London Dry Gin. Re-entering the premises with the agents, the man identified Morris Nussman (President and Secretary of defendant corporate licensee) as the person who sold the gin and in his presence volunteered a signed sworn statement relating that the price paid was \$3.93. Nussman verbally admitted the aforesaid facts. The then current minimum price for a 4/5 quart bottle of the brand in question was \$4.04.

Defendant has no prior adjudicated record. I shall suspend its license for ten days on charge 1 (Re Locust Inn, Inc., Bulletin 1050, Item 10) and twenty days on charges 2 and 3 (Re Dangles, Bulletin 1028, Item 2). Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 2nd day of March, 1955,

ORDERED that Plenary Retail Distribution License D-2, issued by the Borough Council of the Borough of Westwood to Marsam Quality

Food & Liquor Center Inc., for premises 32 Westwood Avenue, Westwood, be and the same is hereby suspended for twenty-five (25) days, commencing at 9:00 a.m. March 8, 1955, and terminating at 9:00 a.m. April 2, 1955.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - NO LOCUS POENITENTIAE INTERVENED - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ANTHONY J. PENTA)
T/a BROADWAY INN)
369-371 Broadway)
Long Branch, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-12, issued by the Board of Commissioners of the City of Long Branch.)
-----)

A. Henry Giordano, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On January 11, 1955, the following charge was preferred against the defendant:

"On December 30, 1954, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to persons under the age of twenty-one (21) years, viz., Pvt. Duane L. ---, U. S. Army, age 18, and Pvt. Kenneth K. ---, U. S. Army, age 19, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon the licensed premises; in violation of Rule 1 of State Regulations No. 20."

On January 26, 1955, while the foregoing charge was pending and undetermined, the following additional charge was preferred against the defendant:

"On Saturday night, January 22, 1955, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to a person under the age of twenty-one (21) years, viz., Ruth B. ---, age 18, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon the licensed premises; in violation of Rule 1 of State Regulations No. 20."

Defendant has pleaded non vult to both the aforesaid charges.

The file herein discloses that about 8:10 p.m., on December 30, 1954, two soldiers 18 and 19 years of age, respectively, were apprehended by the military police as a result of consuming beer in defendant's licensed premises. It appears herein that, at the time in question, an adult soldier who was in the company of the

two minors obtained a glass of beer for each of the minors from the bartender employed by defendant. The minors admitted drinking a small quantity from the glass of beer before being questioned by the military police.

The file further discloses that at 9:20 p.m., on January 22, 1955, ABC agents observed a girl 18 years of age being served a glass of whiskey. Again, at 10:00 p.m., they saw this girl being served another glass of whiskey. The service of the glasses of whiskey was made by a waiter employed by defendant. The minor stated to the ABC agents that she was in the defendant's premises for approximately two hours during which time she was served three glasses of whiskey.

Defendant sets forth in attempted mitigation of penalty that the two minors mentioned in the first charge secreted themselves in a booth in an adjoining room; that the glasses of beer were brought to them by an adult who had purchased them from the bartender in the barroom; and that the booths where the minors were seated could not be seen by a person working behind the bar. There is no merit in this contention because it is the responsibility of a licensee and his employees to keep a watchful eye at all times on his patrons and their activities on the licensed premises. I also see no merit in the fact that the minor girl, mentioned in the second charge, allegedly displayed at a previous time a false birth certificate indicating that she was twenty-two years of age. The production of the birth certificate by the girl in question as contended by defendant was insufficient to satisfy the requirements of R. S. 33:1-77. Cf. Macchiaverna v. Elizabeth, Bulletin 782, Item 8. I might reiterate here what I stated in Re Wedemeyer, Bulletin 1050, Item 8 that, "If licensees are willing to use their own methods of determining the age of a minor, rather than follow the statute, they do so at their peril and must accept the consequences of their own neglect."

As to penalty: The minimum penalty in an unaggravated first offense case involving the sale of alcoholic beverages to two minors 18 and 19 years of age, respectively, is ten days. Re DiRuggiero, Bulletin 923, Item 8. The second charge preferred herein also involves the sale of alcoholic beverages to a minor 18 years of age, but on a date subsequent to that set forth in the earlier charge. However, because no locus poenitentiae (i.e., chance to repent and amend, and thereafter a subsequent violation and adjudication, Re Blanker, Bulletin 254, Item 6) intervened, it cannot here be considered a second offense. In other words there must be an adjudication of guilt followed by punishment, and then, still unregenerate, a subsequent violation and adjudication. Rose v. Bellmawr, Bulletin 411, Item 9. However, the violation cannot be ignored but must be considered as aggravating that which is the subject of the first charge. Re Ciancio, Bulletin 944, Item 4. Moreover, the latter violation in itself is an aggravated offense because of the fact that three glasses of whiskey were served to a girl 18 years of age. Re McCollum, Bulletin 1052, Item 5. Therefore, taking into consideration that three minors were involved and that aggravating circumstances were present in the latter charge aforementioned, I shall suspend defendant's license for twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 3rd day of March, 1955,

ORDERED that Plenary Retail Consumption License C-12, issued by the Board of Commissioners of the City of Long Branch to Anthony J. Penta, t/a Broadway Inn, 369-371 Broadway, Long Branch, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. March 15, 1955, and terminating at 2:00 a.m. April 4, 1955.

6.

ACTIVITY REPORT FOR FEBRUARY 1955

ARRESTS:		
Total number of persons arrested	-----	22
Licensees and employees	----- 6	
Bootleggers	----- 16	
SEIZURES:		
Motor vehicles - cars	-----	5
Still - 50 gallons or under	-----	3
Mash - gallons	-----	180.00
Distilled alcoholic beverages - gallons	-----	137.10
Wine - gallons	-----	2.21
Brewed malt alcoholic beverages - gallons	-----	3.47
RETAIL LICENSEES:		
Premises inspected	-----	574
Premises where alcoholic beverages were gauged	-----	498
Bottles gauged	-----	10,412
Premises where violations were found	-----	33
Violations found	-----	44
Type of violations found:		
Unqualified employees	----- 14	
Reg. #38 sign not posted	----- 6	
Other mercantile business	----- 5	
Disposal permit necessary	----- 2	
Other violations	----- 17	
STATE LICENSEES:		
License applications investigated	-----	5
COMPLAINTS:		
Complaints assigned for investigation	-----	309
Investigations completed	-----	355
Investigations pending	-----	141
LABORATORY:		
Analyses made	-----	105
Refills from licensed premises - bottles	-----	1
Bottles from unlicensed premises	-----	24
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made	-----	14
Persons fingerprinted for non-criminal purposes	-----	132
Identification contacts made with other enforcement agencies	-----	116
Motor vehicle identifications via N. J. State Police teletype	-----	1
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	20
Violations involved:		
Sale during prohibited hours	----- 9	Permitting hostesses on premises - 1
Sale to minors	----- 8	Permitting bookmaking on premises - 1
Permitting brawl on premises	----- 2	Sale to non-members by club - 1
Failure to afford view into premises during prohibited hours	----- 2	Sale over service bar (local reg.) - 1
Cases instituted at Division	-----	21
Violations involved:		
Sale to minors	----- 9	Hindering investigation - 1
Sale during prohibited hours	----- 6	Soliciting orders by telephone - 1
Sale below minimum resale price	----- 2	Possessing indecent matter - 1
Unauthorized transportation	----- 1	Permitting immoral activity - 1
Sale on credit to retailer in default	----- 1	Failure to afford view into premises during prohibited hours - 1
Unqualified employee	----- 1	
Cases brought by municipalities on own initiative and reported to division	-----	8
Violations involved:		
Sale to minors	----- 6	
Sale during prohibited hours	----- 1	
Unqualified employee	----- 1	
Permitting brawl on premises	----- 1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	37
Appeals	----- 7	Seizures
Disciplinary proceedings	----- 17	Tax revocations
Eligibility	----- 7	Applications for license
STATE LICENSES AND PERMITS ISSUED:		
Total number issued	-----	787
Licenses	----- 1	Wine permits
Employment permits	----- 88	Miscellaneous permits
Solicitors'	----- 56	Transportation insignia
Disposal "	----- 58	Transportation certificates
Social affair "	----- 289	

William Howe Davis
Director

Dated: March 2, 1955

7. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against GABRIEL MARCHITTO & ANTHONY RICCARDI 715 - 8th Street Union City, N. J.,

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-216, issued by the Board of Commissioners of the City of Union City.

Gabriel Marchitto & Anthony Riccardi, Defendant-licensees, Pro Se. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charge:

"On Friday night, January 28 and early Saturday morning, January 29, 1955, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to persons under the age of twenty-one (21) years, viz., Gladys ---, age 19 and Joseph P. ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

The file herein discloses that at about 10:30 p.m. on Friday, January 28, 1955, a young man accompanied by a young lady, entered defendants' licensed premises. At 12:15 a.m. on Saturday, January 29, 1955, they were interrogated by ABC agents as a result of which it was ascertained that the girl was 19 years of age and the youth 20 years of age. Furthermore, the minors informed the agents that they each had been served four or five glasses of beer during the time spent in defendants' premises. Anthony Riccardi, one of the defendants herein, admitted the service of three glasses of beer to each of the minors in question.

Defendants have no prior adjudicated record. Inasmuch as the within violation does not appear to be an aggravated offense, I shall suspend defendants' license for a minimum period of ten days. Cf. Re Lippitt and Applebaum, Bulletin 923, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 1st day of March, 1955,

ORDERED that Plenary Retail Consumption License C-216, issued by the Board of Commissioners of the City of Union City to Gabriel Marchitto & Anthony Riccardi, 715 - 8th Street, Union City, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m. March 7, 1955, and terminating at 3:00 a.m. March 12, 1955.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - WINE WHOLESALE LICENSEE - VIOLATION OF RULE 4(a) OF STATE REGULATIONS NO. 39 - LICENSE SUSPENDED FOR 5 DAYS.

In the Matter of Disciplinary Proceedings against)
 JOSEPH J. PERRONE)
 T/a PIRRONE WINE SALES &)
 ABBEY WINE CO.)
 217 Division Avenue)
 Garfield, N. J.,)
 Holder of Wine Wholesale License)
 WW-36, issued by the Director of)
 the Division of Alcoholic Beverage)
 Control of the Department of Law)
 and Public Safety.)

CONCLUSIONS AND ORDER

 Joseph J. Perrone, Defendant-licensee, Pro Se.
 William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On April 16, May 26, June 14 and 15, July 2, August 27 and 31, September 10, 28 and 30, October 15 and 26 and November 5 and 12, 1954, you sold and delivered alcoholic beverages not for payment in cash on delivery to New Jersey retail liquor licensee --- which licensee was, at the time of said deliveries, listed on the default list of the State Division of Alcoholic Beverage Control, in that you made deliveries of wine on said dates to said retailer on credit; in violation of Rule 4(a) of State Regulations No. 39."

The charge herein is so explicit as to the facts relating to this proceeding that it would be redundant to repeat the facts.

Defendant alleges that the violation occurred through the negligence of one of his employees and there was no deliberate attempt to violate State Regulations No. 39. This, of course, cannot be accepted as an excuse because the licensee is responsible for the acts of his agent in the course of the conduct of the licensee's business.

Defendant was given an opportunity to obtain a special permit (see Bulletin 849, Item 1). Having failed to do so, the present proceedings were instituted.

Defendant has no prior adjudicated record. Under all the circumstances, and considering the plea entered herein, I shall suspend defendant's license for a period of five days. Re Gallo Wine Sales of New Jersey, Inc., Bulletin 861, Item 1.

Accordingly, it is, on this 1st day of March, 1955,

ORDERED that Wine Wholesale License WW-36, issued by the Director of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety to Joseph J. Perrone, t/a Pirrone Wine Sales & Abbey Wine Co., 217 Division Avenue, Garfield, be and the same is hereby suspended for a period of five (5) days, commencing at 7:00 a.m. March 7, 1955, and terminating at 7:00 a.m. March 12, 1955.

WILLIAM HOWE DAVIS
 Director.

9. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

VINCENT & MARY MOSCATELLI)
1617 Bergenline Avenue)
Union City, N. J.,)

CONCLUSIONS AND ORDER

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Holders of Plenary Retail Consumption License C-50, issued by the Board of Commissioners of the City of Union City.)

-----)
Samuel I. Daitzman, Esq., Attorney for Defendant-licensees.)
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.)

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging they sold, served and delivered alcoholic beverages to three minors and permitted the consumption of such beverages by said minors in and upon their licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that on Friday night, December 10, 1954, ABC agents entered the dining room of defendants' licensed premises and, at 9:50 p.m., observed three apparent minors in a booth, consuming beer which was served to them by a waitress. At 10:30 p.m. the agents identified themselves and obtained signed statements from Henry ---, Antonio --- and Herman ---. It appears from these statements that each minor was eighteen years of age and that each was served two glasses of beer by a waitress who made no inquiry respecting their ages. The waitress, in a signed sworn statement, admitted the aforesaid violation.

As to prior record: Effective March 18, 1946, the license for the premises herein, then held by Vincent Moscatelli, individually, was suspended for five days by the local issuing authority for sales to minors. The minimum suspension imposed for an unaggravated sale to an eighteen-year-old minor is ten days. Re Ramsey, Bulletin 769, Item 1. Because of the number of minors involved in the instant case and the prior violation which, although occurring more than five years ago, is similar to the violation herein, I shall suspend defendants' license for twenty days. Re Drenguba, Bulletin 874, Item 13; Re Schneider, Bulletin 1033, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 2nd day of March, 1955,

ORDERED that Plenary Retail Consumption License C-50, issued by the Board of Commissioners of the City of Union City to Vincent & Mary Moscatelli, 1617 Bergenline Avenue, Union City, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. March 8, 1955, and terminating at 3:00 a.m. March 23, 1955.

WILLIAM HOWE DAVIS
Director.

10. DISCIPLINARY PROCEEDINGS - ILLEGAL SITUATION CORRECTED - PRIOR SUSPENSION FOR BALANCE OF TERM LIFTED.

In the Matter of Disciplinary Proceedings against)

LITA'S INC.)
1000 Jefferson Street)
Hoboken, N. J.,)

ON PETITION
O R D E R

Holder of Plenary Retail Consumption License C-225, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Hoboken.)

-----)
Charles Bressler, Esq., Attorney for Defendant-licensee.

BY THE DIRECTOR:

On December 27, 1954, I suspended defendant's license for the balance of its term, effective at 2:00 a.m. January 3, 1955, after defendant had pleaded non vult to charges alleging in effect (1) that defendant had concealed the fact that Lita Malignano, a native of Canada, was the real and beneficial owner of all of the stock of said corporation, and (2) that it falsely denied that an association held a conditional bill of sale on its furniture, fixtures and equipment. Leave was given to apply to me for an order lifting said suspension if and when the unlawful situation was corrected, provided, however, that the suspension would not be lifted until after fifty days from the effective date thereof. Re Lita's Inc., Bulletin 1046, Item 1.

Lita Malignano has filed a verified petition herein from which it appears that on February 28, 1955, she was admitted as a citizen of the United States in the District Court of the United States held at Newark, New Jersey.

It thus appearing that the unlawful situation has been corrected and that the suspension has been in effect for more than fifty days,

It is, on this 2nd day of March, 1955,

ORDERED that the suspension heretofore imposed be lifted, and that License C-225 be restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS
Director.

11. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CATHERINE SPIEVY)
T/a PARK CAFE)
Hessian & Lake Avenues)
National Park, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of National Park.)

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Moe A. Joseph, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that she sold, served and delivered alcoholic beverages to two minors and permitted the consumption of such beverages by said minors in and upon her licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that on Thursday night, February 3, 1955, ABC agents entered defendant's licensed premises at 10:00 p. m. Shortly thereafter they observed at the bar a young man who purchased four glasses of beer which he carried to his three companions at a table nearby. The bartender who served the drinks made no inquiry respecting the youth's age. When the four had partaken of some of the beer, the agents identified themselves and, in the presence of the licensee, interrogated them. Two of the party proved to be adults, the other two identified themselves as Philip --- (age 19), who had purchased the four glasses of beer, and Francis --- (age 20), both privates in the U. S. Army. They stated that they had been served and had consumed alcoholic beverages in the licensed premises on the date in question.

Defendant has a prior adjudicated record. Effective November 25, 1939, her license was suspended for ten days by this Division for sale below the minimum resale price list. Re Spievy, Bulletin 303, Item 6, and see Bulletin 362, Item 1. However, since the prior dissimilar violation occurred more than five years ago, it will not be considered in fixing the penalty herein. Re Dwyer, Bulletin 1036, Item 5. In the absence of aggravating circumstances, I shall suspend defendant's license for a period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Cf. Re Maturri, Bulletin 956, Item 12.

Accordingly, it is, on this 3rd day of March, 1955,

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of National Park to Catherine Spievy, t/a Park Cafe, for premises at Hessian & Lake Avenues, National Park, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. March 14, 1955, and terminating at 2:00 a.m. March 19, 1955.

WILLIAM HOWE DAVIS
Director.

12. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

AVENEL RECREATION, INC.)
T/a RAY'S HUT)
Rt. U. S. #1, Lots 1-4, Block 396)
Woodbridge Township)
P. O. Avenel, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-44, issued by the Township Committee of the Township of Woodbridge.)

Avenel Recreation, Inc., by George Kovack, Secretary-Treasurer.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold, served and delivered alcoholic beverages to a minor and permitted the consumption of such beverages by said minor upon its licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that on Sunday, January 23, 1955, at approximately 6:00 p.m., James T. ---, 17 years of age, entered defendant's licensed premises and purchased two half-gallon containers of beer for which he paid 90 cents each. He left the premises, returned to the automobile in which he had been riding and he and his companions consumed the beer.

Defendant has no prior adjudicated record. Since the minor involved was only 17 years of age, I shall suspend defendant's license for fifteen days. Re Tumulty, Bulletin 1035, Item 12. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 7th day of March, 1955,

ORDERED that Plenary Retail Consumption License C-44, issued by the Township Committee of the Township of Woodbridge to Avenel Recreation, Inc., t/a Ray's Hut, Rt. U. S. #1, Lots 1-4, Block 396, Woodbridge Township, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. March 14, 1955, and terminating at 2:00 a.m. March 24, 1955.

WILLIAM HOWE DAVIS
Director.

13. STATE LICENSES -- NEW APPLICATIONS FILED.

Maurice Taylor

Easterly side of New York ave., between Walnut & Spruce Aves.
North Wildwood, N. J.

Application filed March 16, 1955 for transfer of State Beverage
Distributor's License SBD-44 from John Van Bueren, Easterly side
of New Jersey Ave., between Davis & Burk Aves., Wildwood, N. J.

Capt. Oystein J. Aarhuus

Boat "Walfrid"

Ken's Landing

Point Pleasant, N. J.

Application filed March 18, 1955 for Plenary Retail
Transit License.

Michael J. Hammell, t/a Raritan Beverage Co.

Southeasterly side of Lincoln Highway, Lot 15, Block 1130 on
Assessment Map

Edison Township, N. J.

Application filed March 21, 1955 for transfer of State Beverage
Distributor's License SBD-173 from Louis Gonczi, t/a Raritan
Beverage Co., Southeasterly side of Lincoln Highway, Lot 15,
Block 1130 on Assessment Map, Edison Township, N. J.

Camden County Beverage Company

Fillmore and Bulson Streets

Camden, N. J.

Application filed March 22, 1955 for Limited Brewery License.



William Howe Davis
Director.