

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

BULLETIN 1617

JUNE 8, 1965

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STATE OF NEW JERSEY
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JUNE 8, 1965

1. APPELLATE DECISIONS - ZURAWSKI v. LINDEN.

Merdie Zurawski & Olga)
Zurawski, t/a Club Ben Gay,)
Appellants,)

v.)

On Appeal

Municipal Board of Alcoholic)
Beverage Control of the City)
of Linden,)

CONCLUSIONS and ORDER

Respondent.)

Reibel, Isaac & Tannenbaum, Esqs., by Hyman Isaac, Esq.,
Attorneys for Appellant.
Lewis Winetsky, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This appeal challenges the action of the respondent whereby it suspended appellants' Plenary Retail Consumption License C-68, for premises located at 700 East Elizabeth Avenue, Linden, on October 13, 1964, for a period of sixty days effective October 26, 1964, after appellants were adjudged guilty of allowing, permitting and suffering bookmaking and possession of slips of paper containing horse race bets on May 12, 1964 (and other dates as set forth in the amendment to the said charge), in violation of Rule 7 of State Regulation No. 20.

Upon the filing of the appeal an order was entered on October 23, 1964 by the Director of this Division staying the aforesaid order of suspension pending further order of the Director, pursuant to R.S. 33:1-31.

Appellants in their petition of appeal allege that respondent's action was (1) based upon evidence illegally taken as a result of an "unlawful and illegal search and seizure;" (2) that the issue of the alleged unlawful and illegal search and seizure as to certain criminal proceedings which are pending and involve the same subject matter is now being considered by the Appellate Division of the Superior Court and that, if that court should find that such evidence should be suppressed and returned to the appellants, "then and in that event, the very same evidence which formed the foundation for the disciplinary proceeding would of necessity be eliminated and the charge in the disciplinary proceeding could not then be sustained;" (3) that these proceedings should be stayed until such time as the determination of the legal issues now pending before the Appellate Division of the Superior Court be made.

The answer of respondent admits the jurisdictional allegations of the petition and denies its substantive allegations. It further states that the allegations contained in Paragraphs 10 and 11,

which charge the unlawful search and seizure and a search without a search warrant, are "improper and irrelevant".

In its answer respondent sets forth three separate defenses: (1) that the proof of the charge was clear and convincing and there was no contrary proof of the charge that the appellants allowed, permitted and suffered bookmaking and unlawful gambling in the licensed premises (and the same was admitted by the appellants); (2) that the determination of the proceedings respecting the criminal violations is not dispositive of or controlling upon the said disciplinary proceedings, and that a stay will "needlessly delay the ultimate determination of the disciplinary proceedings involved in this appeal;" (3) the statutory and written consent of appellants in their application for the said plenary retail consumption license is lawful and valid and necessary for the regulation of the liquor business.

Attorneys for both parties agreed to submit this appeal upon the transcript taken in proceedings before respondent, pursuant to Rule 8 of State Regulation No. 15. No additional evidence was submitted at this plenary de novo appeal. Counsel, however, were permitted to make an oral presentation at length of the relevant facts and law applicable thereto in lieu of written briefs in summation.

Before discussing the facts as reflected in the transcript of the proceedings before respondent, it might be well to dispose of the contention of the appellants that this matter be stayed pending the determination of criminal proceedings. We are dealing here with a purely disciplinary measure and its alleged infraction, and such measures are civil in nature and not criminal. Kravis v. Hock, 137 N.J.L. 252 (Sup. Ct. 1948). There is a substantial distinction between disciplinary proceedings and criminal actions. These disciplinary proceedings are directed against the license and not the individual. They are, in effect, in rem rather than in personam. Also, the quantum of proof necessary to convict is different. The proof in disciplinary proceedings must be established by a preponderance of the evidence, whereas in criminal proceedings against the individuals involved the proof must be established beyond a reasonable doubt. In fact, an acquittal in the criminal proceedings would not negate the findings and conclusions of an administrative agency. 279 Club, Inc. v. Newark and Davis, Director, 73 N.J. Super. 15, 20; Borough of Park Ridge v. Salimone, 36 N.J. Super. 485, 498 (App.Div. 1955), aff'd 21 N.J. 28 (1956). Therefore, since this does not relate to the criminal proceedings, and in accordance with a long established policy of this Division, there is no need to delay the determination hereof pending the outcome of such criminal proceedings. Accordingly I would recommend that the said request be denied.

The respondent relied upon the testimony of Detective Sergeant John J. Troiano and Detective Fred Heiss, of the Linden Police Department, in support of this charge, and their testimony may be summarized as follows: Pursuant to the authority given to them under R.S. 33:1-35, they, in the company of Detective Edward Kologi, entered the licensed premises herein and informed Merdi Zurawski (one of the licensees, who was then working as a bartender) that they desired to make an inspection of the premises. They did not have a search warrant since they were not required under the said statutory authority to have one for the inspection of licensed premises. They then entered the kitchen and a little pantry off the kitchen where, on the second shelf, they found a horse race betting slip. This slip indicated a wager on horses at Suffolk Downs. A further

search of the kitchen premises revealed additional slips of paper on the second shelf under a box, and more slips on the top shelf. All of these were identified as horse race betting slips.

At first, Zurawski denied any knowledge of horse race betting but, upon being taken to the Police Chief's office at police headquarters, Zurawski admitted that he had been engaged in bookmaking for the past three weeks. He also stated that his best day was on "Saturday," that it was the best day for bookmaking business, which was on a Saturday. And also that is when he took in about \$400 at that time." He further insisted that he didn't write all of them himself. He went through the slips and said, "These are the two that I wrote in the tavern and the rest was brought in to me and I am not going to initial them." He admitted that they brought in to him in the tavern.

Zurawski did not testify in his own behalf, nor were any witnesses produced on behalf of the appellants at the hearing before the Board. Accordingly the licensees were found guilty of the charge herein and, in line with the new policy relating to penalty on gambling charges (Bulletin 1560, Item 6), the Board imposed a suspension of sixty days upon conviction of the said charge.

An examination of the petition in this case indicates that there is no dispute as to the facts herein relating to the alleged violation. However, appellants raise certain legal questions to support their contention that the conviction was erroneous and should be reversed. Counsel in his argument before me reasons as follows: (1) R.S. 33:1-35, which authorizes the Director of the Division of Alcoholic Beverage Control and each other issuing authority to make investigations, inspections and searches of licensed premises "without search warrant by the director, his deputies, inspectors or investigators, by each other issuing authority and by any officer" is unconstitutional; (2) the search of the said licensed premises by the officers without a search warrant was an illegal search; (3) therefore the fruits of the said search cannot be used as evidence against the licensees in these proceedings; (4) the wording in R.S. 33:1-35 "any officer" does not include officers of a municipality but only contemplates that any officer "connected with the Alcoholic Beverage Control is the officer that has the right to go in and make an inspection."

In support of his first contention counsel refers to an unreported decision by Judge Reeves in the Hudson County Court, in the matter of State v. Kocmalski. In this case counsel asserts that the court held that "although tavern owners must agree in order to get licenses that their premises may be searched without a warrant this applies only to investigations concerning liquor law violations and not to searches for any violations of the general criminal laws." Therefore he alleges that these officers had no right to come in to search these premises for any unlawful activity "unless upon a showing of probable cause he has first obtained a search warrant." No copy of this decision was submitted to me for examination, and it appears that Judge Reeves never finalized his decision in the form of a written opinion. The matter considered in Kocmalski involved a criminal charge against an individual.

The law is well established that the question of the validity of the statute is not justiciable before an administrative tribunal. Cf. Blanck v. Magnolia, 73 N.J. Super. 306 (App. Div. 1962), reprinted in Bulletin 1443, Item 1. It is clear that, in a similar case involving the State Board of Tax Appeals, the court expressed the basic principle that no administrative agency has the right to pass on constitutional questions. Schwartz v. Essex County

Board of Taxation, 129 N.J.L. 129, aff'd 130 N.J.L. 177; Duke Power Co. v. Hillsborough Township, 20 N.J. Misc. Rep. 240, 243; Hillsborough Township v. Cromwell, 326 U.S. 620, 625 (U.S. Sup. Ct. 1946). In the Schwartz case the court used the following language:

"It is indisputable that the determination of the constitutionality of an act of the legislature rests with a judicial body; not with a quasi-judicial body***" and administrative tribunals must "accept a legislative act as constitutional until such time as it has been declared to be unconstitutional by a qualified judicial body."

Cf. Abbott v. Beth Israel Cemetery Ass'n of Woodbridge, 13 N.J. 528, 546; State Highway Commission v. Dey, 110 N.J.L. 197, 198 (1953) (E. & A. 1933). Such action can only be adjudicated by a plenary court action and a judicial ruling made as to the validity of the said statute. Hence the Director does not have the authority to rule upon the constitutionality of the very statute under which the alcoholic beverage law is operative. Accordingly, for the purposes of the determination of these issues, R.S. 33:1-35 must be considered as constitutional, valid and binding upon the licensees. It further follows that a search of licensed premises may be made by authorized persons without a search warrant.

Counsel, however, insists that a municipal police officer does not have such right because a search by said officer is not contemplated under the statute. R.S. 33:1-1(p) defines an "officer" as "Any sheriff, deputy sheriff, constable, police officer, member of the department of State police, or any other person having the power to execute a warrant for arrest, or any inspector or investigator of the Division of Alcoholic Beverage Control." It is, of course, contemplated that a police officer of the municipality involved is the one contemplated under the statute, and the reasoning of counsel that a police officer from Atlantic City, or a foreign municipality, may under this definition conduct such inspection or search of licensed premises appears to be specious.

Since I have concluded on the basis of the cases herein cited that, under the authority of R.S. 33:1-35, the local police officials would have a right to make a search and inspection of these premises for the purpose of investigating unlawful activity, it follows that these officers acted properly within such statutory authority.

An examination of the application discloses that the kitchen is part of the licensed premises and, therefore, the search of that part of the premises was perfectly lawful and proper.

One further note with respect hereto: The appellants, in executing the application for their liquor license, consented to the right on the part of the Director, the issuing authority or any authorized agent or officer to inspect said premises. Counsel urges that such consent was not in fact voluntary because this is a violation of their constitutional rights and contrary to the impact of a recent decision of the United States Supreme Court relating to constitutional guarantees against unreasonable searches and seizures. In view of the expressions hereinabove stated, this argument must also be rejected.

A license to vend intoxicating beverages is merely a privilege to pursue an occupation otherwise illegal, and is completely subject to regulation by the Legislature. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373; Grand Union Co.

v. Sills, 81 N.J. Super. 65. It has been held that a constitutional right may be waived by a person when he engages in a business which is regulated by law, the acceptance of a license to engage in such business being a necessary acceptance of the statutory conditions and an implied waiver of the constitutional immunity to that extent. 79 C.J.S. sec. 64, and cases therein cited. See also Wallace v. Ford (1937; D.C.), 21 Fed. Supp. 624.

In the instant matter appellants consented to such inspections and searches when they executed their application for the said license. They had the alternative of not engaging in this business; their consent was purely voluntary. Acceptance of the license is an acceptance of the requirements to be observed by the licensee. The requirements impose the obligation to observe them, since the obligation is one voluntarily assumed in return for the privilege. See 116 A.L.R. 1093, and cases therein annotated.

Therefore, both by legislative mandate and voluntary consent of the licensee, the right of search and inspection by authorized officers is patent and unarguable.

Additionally, it should be emphasized that the reason for permitting such inspection of premises without a search warrant, as well as other exceptional measures provided for in the alcoholic beverage law, is that, from the earliest history of our State, the sale of intoxicating liquor has been dealt with by the legislature in an exceptional way. Because of its sui generis nature and significance, it is a subject by itself, to the treatment of which all the analogies of the law, appropriate to other administrative agencies, cannot be applied. Paul v. Gloucester County, 50 N.J.L. 585, 595 (E. & A. 1888). This field is peculiarly subject to strict governmental control. Franklin Stores Co. v. Burnett, 120 N.J.L. 596, 598 (Sup. Ct. 1938). Consistent therewith is the Legislature's mandate that "This chapter is intended to be remedial of abuses inherent in liquor traffic and shall be liberally construed." Franklin Stores Co. v. Burnett, supra. The court, in Blanck v. Magnolia and D'Amico et al. (reprinted in Bulletin 1486, Item 1), in discussing the history of alcoholic beverage control, refers to the comments of Chief Justice Case writing for the Court of Errors and Appeals in Hudson Bergen County Retail Liquor Stores Assn. v. Board of Com'rs of City of Hoboken, 135 N.J.L. 502, 507-509 (E. & A. 1947), who stated that the reason and the need for singling out the liquor traffic for peculiar limitation and strict supervision may be read in our statutes for nearly 250 years, from early colonial times through the post-prohibition legislative requirements.

Justice Case also pointed out that our courts have held that, in interpreting statutes in this field, meticulous technicalities should not be permitted to thwart the Legislature's effort to keep a public convenience from becoming a social evil and, therefore, state authorities should be given every opportunity to work out the mandate of the Legislature.

My careful examination and evaluation of the testimony herein satisfy me, and I so conclude, that the respondent has sustained the burden of establishing the charge in question by a fair preponderance of the believable evidence. I also conclude that the appellants have not met the burden of establishing that the action of respondent herein was erroneous.

I, therefore, recommend that an order be entered affirming respondent's action, dismissing the appeal, and fixing the effective dates for the suspension imposed by respondent and stayed pending the entry of the order herein.

Conclusions and Order

No written exceptions to the Hearer's Report were filed within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the evidence in this case, the exhibits and the oral argument in summation presented by the attorneys for the respective parties herein, and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

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

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

ORDERED that Plenary Retail Consumption License C-68, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden to Merdie Zurawski & Olga Zurawski, t/a Club Ben Gay, for premises 700 East Elizabeth Avenue, Linden, be and the same is hereby suspended for sixty (60) days, commencing at 2 a.m. Monday, April 19, 1965, and terminating at 2 a.m. Friday, June 18, 1965.

JOSEPH P. LORDI
DIRECTOR

2. APPELLATE DECISIONS - OCEAN COUNTY LICENSED BEVERAGE ASSOCIATION V. SEASIDE HEIGHTS and HAMILTON HOTEL, INC.

Ocean County Licensed Beverage Association,)	
)	
Appellant,)	
)	
v.)	
)	On Appeal
Mayor and Council of the Borough of Seaside Heights, and Hamilton Hotel, Inc., t/a Island House,)	CONCLUSIONS and ORDER
)	
Respondents.)	
-----))	
Novins & O'Connor, Esqs., by Robert J. Novins, Esq., Attorneys for Appellant.)	
Hiering, Grasso & Gelzer, Esqs., by William T. Hiering, Esq., Attorneys for Respondent Mayor and Council.)	
Citta and Gasser, Esqs., by Robert A. Gasser, Esq., Attorneys for Respondent Hamilton Hotel, Inc.)	

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Appellant appeals from the action of respondent Mayor and Council (hereinafter Council) whereby it approved an application for a place-to-place transfer of respondent-licensee's Plenary Retail Consumption License C-18 from premises located at Bayview Avenue and Hamilton Avenue to premises at the south-east corner of

Hamilton Avenue and Boulevard, Borough of Seaside Heights.

Appellant contends in its petition of appeal that the Council's action was erroneous because the approval of the transfer of the license violated Section 7 of local Ordinance No. 219 adopted May 18, 1940, which provides as follows:

"No licenses of any class shall be issued or transferred to any premises within TWO HUNDRED FEET of any other premises for which the license of any class is already outstanding; provided, however, that this shall not prevent the renewal or transfer from person to person, for the same premises, of any license outstanding at the time this Ordinance is adopted."

In lieu of a hearing in this matter, the parties presented the appeal solely upon an agreed statement of facts. Rule 8 of State Regulation No. 15.

The undisputed proof in the case herein discloses that on December 2, 1964, the application for the license in question was approved by the Council. It appears from the facts herein that the new location to which the license was transferred is within two hundred feet of another liquor license outlet.

However, on January 20, 1965, Section 7 of Ordinance No. 219 was repealed, thus eliminating the footage provision of the ordinance applying to the issuance and transfer of liquor licenses.

The appellant contends that the issue herein must be decided on the status of the ordinance at the time the application for transfer of the respondent-licensee was acted upon by the Council.

The law in this State, however, is to the contrary. There is a long line of legal adjudications in this State to the effect that the status of the municipal law at the time the appellate authority renders its decision governs rather than when adjudicated by the municipal issuing authority, which in this case resulted in the appeal from its action. Roselle v. Wright, 37 N.J. Super. 507, and cases cited therein.

In Socony-Vacuum Oil Co., Inc. v. Mt. Holly Twp., 135 N.J.L. 112, Justice Perskie, speaking for the New Jersey Supreme Court, said:

"Moreover, in my opinion, there can no longer be any question as of the time when the status of the applicable law controls. It is neither the status of the law prevailing at the time of the application for the permit nor the status of the law prevailing at the time of the application or allowance of the rule to show cause. It is the status of the law prevailing at the time of the decision of the court that is controlling. Cf. Westinghouse Electric Corp. v. United Electrical, &c., America (Court of Errors and Appeals, 1946), 139 N.J. Eq. 97, 105, 106; 49 Atl. Rep. (2d) 896."

The latest amendment to the ordinance in question gives the local issuing authority the power to grant a place-to-place transfer such as the one now under consideration. Furthermore, I am satisfied that, if the action of the Council were reversed or if the matter were remanded to the local issuing authority, an application for a similar transfer would immediately be filed by the respondent-licensee and would meet with the same result on the part of the Council as heretofore. Thus, from a practical standpoint, nothing would be accomplished.

The burden of establishing that the action of the issuing authority was erroneous and should be reversed rests with the appellant. Rule 6 of State Regulation No. 15. The proof adduced by appellant in its attempt to seek a reversal of the matter now under consideration falls short of meeting such requirement.

Under the circumstances I recommend that the action of the Council be affirmed, and that the appeal herein be dismissed.

Conclusions and Order

No exceptions to the Hearer's Report were filed within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the entire record, including the agreed statement of facts and submitted herein and the argument of the respective attorneys, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

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

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

JOSEPH P. LORDI
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Angeline Tomasetto
t/a M.D.M. Bar
575 Van Hook Street
Camden, New Jersey

Holder of Plenary Retail Consumption License C-139, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

CONCLUSIONS

and

ORDER

Michael Melissas, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads guilty to charges (1) and (2) alleging that on February 10 and 11, 1965, she permitted the acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for ten days effective August 24, 1964, for possessing alcoholic beverages in bottles not truly labeled. Re Tomasetto, Bulletin 1582, Item 10.

The prior record of suspension of license for dissimilar violation within the past five years considered, the license will be suspended for sixty-five days, with remission of five days for plea entered, leaving a net suspension of sixty days. Re Marcus, Bulletin 1612, Item 5.

Accordingly, it is, on this 19th day of April 1965,

ORDERED that Plenary Retail Consumption License C-139 issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Angeline Tomasetto, t/a M. D. M. Bar, for premises 575 Van Hook Street, Camden, be and the same is hereby suspended for sixty (60) days, commencing at 7 a.m. Monday, April 26, 1965, and terminating at 7 a.m. Friday, June 25, 1965.

JOSEPH P. LORDI
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE AND NUMBERS BETS) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Main Street Bar (Body Corp.))
t/a "Main Street Bar")
61-63 Main Street)
Keansburg, New Jersey)

CONCLUSIONS
AND

Holder of Plenary Retail Consumption License C-26, issued by the Mayor and Council of the Borough of Keansburg)

ORDER

-----)
Louis R. Cerefice, 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 (1) and (2) alleging that on divers dates between March 4 and 30, 1965, it permitted the acceptance of horse race and numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Absent prior record, the license will be suspended for sixty days, with remission of five days for the plea entered, leaving a net suspension of fifty-five days. Re Venezia, Bulletin 1609, Item 5.

Accordingly, it is, on this 19th day of April, 1965,

ORDERED that Plenary Retail Consumption License C-26, issued by the Mayor and Council of the Borough of Keansburg to Main Street Bar (Body Corp.), t/a Main Street Bar, for premises 61-63 Main Street, Keansburg, be and the same is hereby suspended for fifty-five (55) days, commencing at 2:00 a.m. Thursday, April 22, 1965, and terminating at 2:00 a.m. Wednesday, June 16, 1965.

JOSEPH P. LORDI
DIRECTOR

5. ACTIVITY REPORT FOR APRIL 1965

ARRESTS:		
Total number of persons arrested	-----	29
Licensees and employees	----- 21	
Bootleggers	----- 8	
SEIZURES:		
Motor vehicles - cars	-----	1
Alcohol - gallons	-----	1.60
Distilled alcoholic beverages - gallons	-----	1.21
Wine - gallons	-----	3
Brewed malt alcoholic beverages - gallons	-----	5.64
RETAIL LICENSEES:		
Premises inspected	-----	688
Premises where alcoholic beverages were gauged	-----	555
Bottles gauged	-----	8,176
Premises where violations were found	-----	68
Violations found	-----	82
Unqualified employees	----- 21	
Application copy not available	----- 18	
Reg. #38 sign not posted	----- 8	
Other mercantile business	----- 7	
Prohibited signs	----- 4	
Disposal permit necessary	----- 3	
Other violations	----- 21	
STATE LICENSEES:		
Premises inspected	-----	15
License applications investigated	-----	11
COMPLAINTS:		
Complaints assigned for investigation	-----	377
Investigations completed	-----	359
Investigations pending	-----	200
LABORATORY:		
Analyses made	-----	124
Refills from licensed premises - bottles	-----	58
Bottles from unlicensed premises	-----	21
IDENTIFICATION:		
Criminal fingerprint identifications made	-----	8
Persons fingerprinted for non-criminal purposes	-----	379
Identification contacts made with other enforcement agencies	-----	252
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	4
Violations involved	-----	5
Sale during prohibited hours	----- 3	
Failure to close prem. during proh. hrs.	----- 1	
Sale to minors	----- 1	
Cases instituted at Division	-----	25
Violations involved	-----	31
Possessing liquor not truly labeled	----- 5	
Sale to minors	----- 4	
Beverage Tax Law non-compliance	----- 3	
Permitting bookmaking on premises	----- 3	
Permitting lottery activity on prem.	----- 3	
Fraud and front	----- 2	
Failure to close prem. dur. proh. hrs.	----- 2	
Sale during prohibited hours	----- 2	
Conducting business as a nuisance	----- 3	
Conducting business as a nuisance	----- 1	
Possessing pinball mach. on premises	----- 1	
Permitting hostesses on premises	----- 1	
Unqualified employees	----- 1	
Permitting gambling on premises	----- 1	
Fraud in application	----- 1	
Hindering investigation	----- 1	
Cases brought by municipalities on own initiative and reported to Division	-----	29
Violations involved	-----	34
Sale to minors	----- 16	
Permitting minors to congregate on premises (local reg.)	----- 4	
Sale during prohibited hours	----- 3	
Permitting brawl on premises	----- 3	
Conducting business as a nuisance	----- 3	
Hindering investigation	----- 1	
Failure to close prem. dur. proh. hrs.	----- 1	
Act of violence on premises	----- 1	
Failure to employ constable on prem. during certain hours (local reg.)	----- 1	
Permitting bookmaking on premises	----- 1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	38
Appeals	----- 9	
Disciplinary proceedings	----- 22	
Eligibility	----- 3	
STATE LICENSES AND PERMITS ISSUED:		
Total number issued	-----	3,185
Licenses	----- 4	
Social affair permits	----- 322	
Solicitors' permits	----- 95	
Miscellaneous permits	----- 210	
Employment permits	----- 2,492	
Transit insignia	----- 33	
Disposal permits	----- 21	
Transit certificates	----- 7	
Wine permits	----- 1	
OFFICE OF AMUSEMENT GAMES CONTROL:		
Licenses issued	-----	122
Enforcement files established	-----	10

JOSEPH P. LONDI
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

Dated: May 6, 1965

6. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #254)	
In the Matter of a Petition to)	
Lift the Automatic Suspension of)	
Plenary Retail Distribution License)	
D-8, issued by the Board of)	
Alcoholic Beverage Control for the)	
City of Paterson to)	On Petition
 Lark, Inc.)	 SUPPLEMENTAL ORDER
t/a Wayne Wine & Liquor Shop)	
356 Union Avenue)	
Paterson, New Jersey)	

Louis R. Cerefice, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

On December 29, 1964, an order was entered temporarily staying statutory automatic suspension of license of petitioner pending determination of appeal from criminal conviction of Kenneth Gottlieb, president of the licensee-petitioner, to the Passaic County Court and pending determination of appeal to the Director from the action of the municipal issuing authority in suspending petitioner's license for one hundred twenty days, both involving sale to the same minor. Re Lark, Inc., Bulletin 1600, Item 7.

It now appears from supplemental petition filed herein that the appeal of the criminal conviction has resulted in the affirmance of such conviction. In addition, the one hundred twenty day suspension has been reduced to suspension of license for thirty days commencing at 9:00 a.m. Wednesday, April 7, 1965, and terminating at 9:00 a.m. Friday, May 7, 1965. Lark, Inc. v. Paterson, Bulletin 1615, Item 1. Hence, I shall lift the automatic suspension in anticipation of the service of the currently effective suspension of license. Cf. Re Royce, Bulletin 1614, Item 4.

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

ORDERED that the statutory automatic suspension of said license D-8 be and the same is hereby lifted, effective 9:00 a.m. Friday, May 7, 1965.

JOSEPH P. LORDI
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Pawlowski's Tavern, Inc. t/a Pawlowski's Bar & Grill 245 Monmouth Street Jersey City, New Jersey

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-466, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City

Licensee, by Irene Pawlowski, Secretary-Treasurer, 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 March 6 and 13, 1965, it sold on each occasion a pint bottle of whiskey for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the Director for ten days effective March 15, 1955, for similar violation (Re Pawlowski's Tavern, Inc., Bulletin 1055, Item 5) and for forty days effective October 3, 1957, for similar violation and, in addition, sale during hours prohibited by local regulation and failure to afford interior view of the licensed premises during prohibited hours (Re Pawlowski's Tavern, Inc., Bulletin 1194, Item 3).

The prior record of two suspensions of license for similar violation occurring more than five but less than ten years prior to the instant violation considered, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Rosman, Bulletin 1600, Item 10.

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

ORDERED that Plenary Retail Consumption License C-466, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Pawlowski's Tavern, Inc., t/a Pawlowski's Bar & Grill, for premises 245 Monmouth Street, Jersey City, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, April 20, 1965, and terminating at 2:00 a.m. Monday, May 10, 1965.

JOSEPH P. LORDI DIRECTOR

8. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #262)
 In the Matter of a Petition to)
 Lift the Automatic Suspension of)
 Plenary Retail Distribution)
 License D-15, issued by the)
 Municipal Board of Alcoholic)
 Beverage Control of the Township)
 of North Bergen to)
)
 Mosner Liquors, Inc.)
 t/a Hillside Wine & Liquors)
 8700 Kennedy Blvd.)
 North Bergen, New Jersey)

On Petition

O R D E R

BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division that on March 29, 1965, Jerry Frank Mosner, president of the licensee-petitioner, was fined \$250 in the North Bergen Municipal Court after pleading guilty to a charge of sale of alcoholic beverages to a minor on March 19, 1965, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of the license for the balance of its term. R.S. 33:1-31.1. The suspension has not been effectuated because of the pendency of this proceeding.

It further appears that the municipal issuing authority has suspended the license for twenty days effective 7:00 a.m. April 19, 1965, after the licensee's confessional plea to a charge in disciplinary proceedings alleging the same sale to the minor. Hence, I shall temporarily stay the automatic suspension pending commencement of the municipal suspension and shall lift the automatic suspension effective at the termination of the municipal suspension. Cf. Re Kassner, Bulletin 1596, Item 5.

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

ORDERED that the statutory automatic suspension of said license D-15 be and the same is hereby stayed effective immediately and is hereby lifted effective 7:00 a.m. Sunday, May 9, 1965.

JOSEPH P. LORDI
 DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

Galicia Bar, Inc.)
67-69 Ferry Street)
Newark, New Jersey)

CONCLUSIONS AND

Holder of Plenary Retail Consumption License C-548, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

ORDER

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John J. Dios, Esq., Attorney for Licensee.
Morton B. Zemel, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on March 26, 1965, 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 McEvoy, Bulletin 1594, Item 8.

Accordingly, it is, on this 14th day of April, 1965,

ORDERED that Plenary Retail Consumption License C-548, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Galicia Bar, Inc. for premises 67-69 Ferry Street, Newark, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. Monday, April 19, 1965, and terminating at 2:00 a.m. Saturday, April 24, 1965.

JOSEPH P. LORDI
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

655 McCarter Highway, Inc.)
t/a Little Ray's)
655 McCarter Highway)
Newark, New Jersey)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-412, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Horowitz and Bross, Esqs., by Sheldon Bross, Esq., Attorneys for Licensee.
Morton B. Zemel, Esq., Appearing for the Division of Alcoholic Beverage Control.

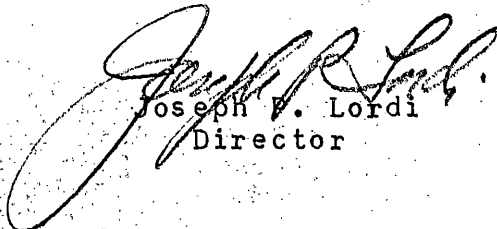
BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 18, 1965, it possessed alcoholic beverages in five bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Villa Robatto, Inc., Bulletin 1605, Item 6.

Accordingly, it is, on this 20th day of April, 1965,

ORDERED that Plenary Retail Consumption License C-412, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to 655 McCarter Highway, Inc., t/a Little Ray's, for premises 655 McCarter Highway, Newark, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, April 27, 1965, and terminating at 2:00 a.m. Monday, May 17, 1965.


Joseph P. Lordi
Director