

26 Rose Avenue,
Madison,
Morris County, New Jersey
STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 1031

SEPTEMBER 14, 1954.

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - NELSON AND WILLEY AND GIORDANO v.
EGG HARBOR TOWNSHIP
2. APPELLATE DECISIONS - EMPIRE LIQUOR CO. v. NEWARK AND RAJAH LIQUORS.
T. D. HOLDING CO. v. NEWARK AND RAJAH LIQUORS.
NACK AND WESTON v. NEWARK AND RAJAH LIQUORS.
3. RETAIL LICENSEE - "DRIVE-IN" LIQUOR STORE DISAPPROVED.
4. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE DURING PROHIBITED
HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 -
GAMBLING - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Belleville) - SALE TO MINORS - LICENSE
SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE DURING PROHIBITED
HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 -
LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Passaic) - ILLICIT LIQUOR - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
8. AUTOMATIC SUSPENSION (Pennsauken Township) - SUSPENSION OF LICENSE
BY LOCAL ISSUING AUTHORITY ADEQUATE - APPLICATION TO LIFT GRANTED.
9. ACTIVITY REPORT FOR AUGUST, 1954.
10. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR
THE PERIOD JULY 1, 1953 TO JUNE 30, 1954 AS REPORTED TO THE
DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE
LOCAL ISSUING AUTHORITIES PURSUANT TO R. S. 33:1-19.
11. ELIGIBILITY - COMMERCIALIZED GAMBLING - NO MORAL TURPITUDE
INVOLVED UNDER CIRCUMSTANCE OF CASE.
12. DISCIPLINARY PROCEEDINGS (Asbury Park) - SALES TO MINORS - SALE
DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE
REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR
PLEA.

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

BULLETIN 1031

SEPTEMBER 14, 1954.

1. APPELLATE DECISIONS - NELSON AND WILLEY AND GIORDANO v. EGG
HARBOR TOWNSHIP.

MAURICE NELSON and EDGAR G.)
WILLEY, trading as PEACH ORCHARD
INN, and JOSEPH GIORDANO, Receiver,)

Appellants,)

-vs-

TOWNSHIP COMMITTEE OF THE)
TOWNSHIP OF EGG HARBOR,)

Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

Bolte and Repetto, Esqs., by Augustine A. Repetto, Esq.,
Attorneys for Appellants.
Harry Souchal, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from respondent's action on June 29, 1954, whereby it denied, by a 2 to 1 vote, appellants' application for renewal of a plenary retail consumption license for the 1954-55 licensing period for premises known as Peach Orchard Inn, located at or near Fire Road.

Upon the filing of this appeal I entered an order, dated July 1, 1954, extending the term of the 1953-54 license until further order pending final determination of this appeal.

Appellants contend that respondent's action was arbitrary and unreasonable and without basis in fact or in law.

Respondent contends that the best interests of the community would be served by the denial of the renewal of the license and that it had a legal right to refuse such renewal.

This appeal was heard de novo pursuant to Rule 6 of State Regulations No. 15.

The background facts are substantially the same as those recited in the recent appeal from the denial of a person-to-person transfer of this same license. See McCollum v. Egg Harbor, and Willey, Nelson and Giordano v. Egg Harbor, Bulletin 1026, Item 1, wherein respondent's action in denying the person-to-person transfer (from appellants to the McCollums) was reversed but no order was entered requiring respondent to issue the transfer because the license had expired on June 30, 1954, before final determination of the appeal (July 19, 1954). As related in the previous appeal, the premises in question have been licensed since 1933; the license was transferred to Willey and Nelson October 10, 1951 and, until now, renewed to them annually thereafter and extended to the Receiver (Giordano).

The reasons for the denial of the renewal are not substantially different from those denying the person-to-person transfer, aforementioned. Apparently, the two members of the five-man Township Committee who voted to deny the renewal did so principally because of objections raised by 119 residents of the district in which the licensed premises are located. Briefly stated, the objections deal with the number of licenses in the Township and more particularly, the

number in the district, their alleged tendency to create disorderly persons and alleged traffic hazards. At the hearing on this appeal several witnesses who live in the neighborhood testified that they had expressed opposition to the existence of the license at these premises because of noise and disturbances there. However, as to some of the alleged incidents, they admitted that they were not certain that the offenders came from appellants' licensed premises and as to several others, it was established that the complaints against the offenders were made by one of the licensees.

The three members of respondent Township Committee who appeared at the hearing on this appeal (one who voted to deny the transfer and two who were absent when the vote was taken) admitted that they had no personal knowledge of the alleged disturbances, aforementioned. The member who voted to deny the transfer (Mr. English) further testified that action on appellants' application for renewal had been deferred until June 29th, partly because respondent was awaiting the outcome of the previous appeal; that he felt that there are a large number of licensed premises in the area; that he voted to deny the transfer because of the objections raised and that he and the other member who voted to deny the application for renewal (Mr. Couchoud) had discussed the matter and had stated that they voted that way because they felt that they had to be consistent with their prior vote on the refusal to transfer the license.

As the Director said in Kleinberg v. Harrison, Bulletin 984, Item 2:

"It is well established that there is no inherent right to a renewal of a license. Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946). However, it is equally well established that an application for renewal of a license may not be denied capriciously or merely to reduce the number of licenses. Such denial must be based on reasonable grounds or it will be reversed. Costa v. Red Bank, Bulletin 133, Item 5; McGuire v. Paulsboro, Bulletin 392, Item 10."

As was pointed out in the Conclusions in the previous appeal, these premises have been licensed for more than twenty years. On the record before me there is no adequately probative evidence of misconduct by the licensees or other facts or circumstances which would justify a denial of the renewal of this license. I find respondent's action was unreasonable and unwarranted and I have no alternative other than to reverse it. Kleinberg v. Harrison, supra, and cases therein cited.

Accordingly, it is, on this 26th day of August, 1954,

ORDERED that the action of respondent be and the same is hereby reversed, and respondent is directed and ordered to issue to appellants a license for the current fiscal year, pursuant to the Conclusions herein.

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - EMPIRE LIQUOR CO. v. NEWARK AND RAJAH LIQUORS.
 T. D. HOLDING CO. v. NEWARK AND RAJAH LIQUORS.
 NACK AND WESTON v. NEWARK AND RAJAH LIQUORS.

EMPIRE LIQUOR CO.,)
 Appellant,)

-vs-

MUNICIPAL BOARD OF ALCOHOLIC)
 BEVERAGE CONTROL OF THE CITY OF)
 NEWARK, and RAJAH LIQUORS,)
 Respondents.)

-----)
 T. D. HOLDING CO., a New Jersey)
 corporation,)

Appellant,)

-vs-

MUNICIPAL BOARD OF ALCOHOLIC)
 BEVERAGE CONTROL OF THE CITY OF)
 NEWARK, and RAJAH LIQUORS,)
 Respondents.)

ON APPEAL

CONCLUSIONS AND ORDER

-----)
 ALEXANDER NACK and WESTON AND)
 COMPANY,)

Appellants,)

-vs-

MUNICIPAL BOARD OF ALCOHOLIC)
 BEVERAGE CONTROL OF THE CITY OF)
 NEWARK, and RAJAH LIQUORS,)
 Respondents.)

-----)
 Charles A. Stanziale, Esq. and Robert C. Gruhin, Esq., Attorneys for)
 Appellant Empire Liquor Co.)

Hodes & Hodes, Esqs., by William Hodes, Esq., Attorney for Appellant)
 T. D. Holding Co.)

Daniel G. Gallop, Esq. and Charles A. Stanziale, Esq., Attorneys for)
 Appellants Alexander Nack and Weston and Company.)

Horace S. Bellfatto, Esq., by George B. Astley, Esq., Attorney for)
 Respondent Municipal Board of Alcoholic Beverage)
 Control.)

Green and Yanoff, Esqs., by H. Kermit Green, Esq., Attorney for)
 Respondent Rajah Liquors.)

BY THE DIRECTOR:

These consolidated appeals are from the action of respondent Board on January 26, 1954, whereby it granted, by a 2 to 1 vote, respondent-licensee's application for transfer of its 1953-54 plenary retail consumption license from 274 Fifteenth Avenue to 269-271 Springfield Avenue, Newark.

On June 12, 1953 respondent Board, by unanimous vote, denied a similar application by respondent-licensee for transfer of its 1952-53 plenary retail consumption license involving the same premises. Such denial was affirmed by the then State Director on November 24, 1953. Rajah Liquors v. Newark, Bulletin 993, Item 2. The principal basis for respondent Board's denial of the application and the affirmation thereof rests upon its finding that the transfer "did create a greater concentration of licenses than presently exists at that point

and would also cause a greater congestion of traffic than now exists at the present location." In the Conclusions and Order in Rajah Liquors v. Newark, supra (hereinafter referred to as the previous appeal), after setting forth the number of licenses in the vicinity, the Director pointed out that no evidence was presented by appellant, either before respondent Board or at the hearing on the appeal, to indicate a need for or a convenience to be served at the proposed new location.

Thereafter, on July 1, 1953, respondent-licensee filed with respondent Board the application the granting of which is the subject of the present appeal. Notice of application was duly published in a proper newspaper on July 2 and July 9, 1953. On July 14, 1953, while the previous appeal was still pending before the State Director, respondent Board adjourned consideration of the application without date and, on January 26, 1954, following the Director's determination of the previous appeal (affirming respondent Board's denial of the transfer sought) held the hearing which resulted in the action complained of in the present appeal. At the conclusion of the hearing Mr. D'Alessio, Chairman of respondent Board, voted to deny the transfer and said, in part, "I voted to deny this application the last time it came up six or seven months ago, and I don't believe that anything has been shown me that would call upon me to change my mind...." Commissioner Reuther, who together with the then Commissioner D'Alessio and then Chairman Braff (since deceased) had voted to deny the transfer, changed his position and voted to grant the second application for transfer. He explained his vote as follows:

"At the time this application was before this Board, which was the application to transfer made on June 12, 1953, I voted to deny that application mainly on technical grounds. It had to do at that time with the consent signed by the minister of the church and not being in legal form. It also had to do with the question of the sign not being in conformity with the city ordinance. They were the two main issues raised at that time. There was also at that time testimony on the traffic congestion that would be created by another tavern in that vicinity.

"After listening to the evidence here today, I am finding that as far as the church and the sign are concerned they now conform with the ordinance. I have listened to the traffic expert, Mr. Cyr, and I feel those technicalities have been removed and the conditions as I see it have been remedied. At that time the late Joseph N. Braff and Mr. D'Alessio and myself were on the Board. I have checked the record of this applicant and I find that his record has been clean the entire time that they have been in the tavern business.

"I have listened to the minister's testimony today, and he testified along the line of corruption and of people in trouble and narcotics and so on, but I don't think that is applicable to this matter today.

"Having considered the facts presented today in the evidence, I vote consent and approval of this application."

Commissioner Lerner, who was appointed to fill the vacancy of the late Chairman Braff and who was not a member of respondent Board when the first application was denied, voted in favor of the second application and explained his vote as follows:

"I was not a member of the Board at the time that the original application was made for transfer, so that I don't have to speak for that phase of it. However, I have listened attentively to the case as presented by the counsel for the licensee and to those opposed. I would have been much more impressed by the minister's opposition if he had testified to opposition to this particular tavern rather than being opposed to all taverns.

"I feel the licensee is entitled to just as much consideration as those who oppose it, and in my mind I feel that this request for a transfer is justified, and I vote yes."

Thus the action herein complained of was the result of the vote of a new member who did not participate in the earlier decision and the vote of Commissioner Reuther who had previously voted to deny the first application. While the burden of establishing the action of a local issuing authority is erroneous and should be reversed rests upon appellant (Rule 6 of State Regulations No. 15), where, as here, there is an application by the same applicant for transfer to the same premises, a switch in position on the part of a member of the issuing authority must be closely scrutinized to determine whether reasonable ground exists therefor. Joyce v. Washington Township, Bulletin 909, Item 3. For this purpose let us examine the record.

Appellants, by their petitions of appeal and memoranda, urge that there has been no change in the situation since the previous denial of respondent Board, affirmed by the State Director; that there is the same concentration of licenses in the area; that there are too many licenses in said area; that respondent Board did not consider the desirability to the neighborhood of the proposed transfer; that there was insufficient notice of the application for transfer; that since the husband of one of the principal stockholders of respondent-licensee is a sales supervisor for the holder of a wholesale liquor license, said stockholder is ineligible to hold her interest in the retail license and that, because of the proximity of the proposed new premises to a proposed new school, the transfer should have been denied.

Respondents deny these contentions and assert that the following changes, allegedly occurring between the previous denial and the granting of the transfer, justify the change in the Board's action: (1) the previous church waiver was defective, but the present waiver is in proper form; (2) a previous sign and notice were defective whereas the present sign and notice comply with the regulations; (3) the number of liquor outlets in the area was sufficient in June 1953, but the concentration of licenses in the area has already been reduced by one license and will be reduced by six more licenses which will be required to move because of the school project; (4) the evidence on the second application showed no traffic hazard; (5) the proposed new premises are more than 200 feet from the proposed school. Respondent Board further contends that it has reasonable discretion in matters of this kind.

Two matters should be disposed of before proceeding to a discussion of the merits of the transfer.

Appellants' contention that there was insufficient notice of respondent-licensee's intention to apply for the transfer is without merit. The notices were published as required by law. In any event, appellants' rights have been fully protected by this appeal which was heard de novo. See Eana, Inc. v. Pleasantville, Bulletin 1024, Item 2. Appellants' further contention with respect to the alleged disqualification of the wife of an employee of the holder of a wholesale liquor license is also without merit.

I have carefully considered the entire record in this matter and also the entire record in the previous appeal including all of the evidence before respondent Board and the additional testimony and exhibits produced at the hearings on both appeals. I deem it unnecessary to detail all of such evidence. Suffice it to say that much of the evidence introduced at the hearings on both applications was substantially the same. The evidence with respect to the important questions of public necessity and convenience, concentration of licenses and alleged traffic hazards was not sufficiently different on the

second application as to change the essential nature of the situation. For example, only one license change actually occurred in the area between the denial of the first application and the grant of the second (current) application and while it is possible, even probable, that six other licensees may be forced to seek other premises because their present premises will be taken for the new school project, that fact will have little effect upon the general concentration of licenses in the neighborhood which, by then, will have undergone a change by virtue of the school project aforementioned. The testimony with respect to the traffic conditions was most inconclusive.

The question of the proximity of the proposed premises to the proposed school was raised for the first time on the second application. Considerable testimony was taken at the hearing before respondent Board on January 26, 1954, and at the hearing on the present appeal from which it appears that a plan of the Board of Education for a new school project including building and play areas was approved by the Central Planning Board of the City; that said school project will be located between West Kinney Street and Springfield Avenue between Livingston Street and Morris Avenue (portions of Boyd Street and Sayre Street to be vacated); that the school will accommodate 1600 pupils approximately 14 to 16 years of age; that the Board of Education, at a meeting held March 30, 1954, approved a recommendation to oppose the transfer here complained of, and that the Board of Commissioners of the City of Newark (by a 3 to 1 vote (one other member abstained)) adopted a resolution on April 14, 1954 opposing said transfer and expressing its desire that the State Director reverse the determination of the local issuing authority and deny the transfer. Several maps and diagrams were introduced in evidence from which it appears that the front of the proposed premises at 269-271 Springfield Avenue is slightly more than 100 feet from the proposed school and only a little farther from a proposed entrance to the school building.

The principal consideration in a matter of this kind, involving a reversal of previous action by a local issuing authority, is whether or not such reversal is reasonably justified. Since Commissioner D'Alessio voted to deny the transfer as he had done on the previous application, and since Commissioner Lerner, who was not a member of respondent Board when the first application was denied, was not bound by the vote of his predecessor, it is obvious that the crux of the matter is the switch in position on the part of Commissioner Reuther. On the record before me, involving as it does the same applicant, the same premises, no real and basic change in the merits and the decisive switch in position on the part of one of the members, I cannot find that the change in result is justifiable and sound. The alleged reasons for the switch are not supported by the evidence. However, there is not the slightest evidence of improper motivation.

With respect to the additional issue of the proximity of the proposed new location to the proposed new school project, while the school building has not been erected and thus the transfer may not be prohibited by R. S. 33:1-76 (200 feet rule), it must be remembered that its protective provisions are minimal. It has long been held that the municipal issuing authority may determine the policy question as to whether or not a particular premises, although beyond the required 200 feet distance, are "too close" to a church or school. Trinity Methodist Church of Rahway N. J. v. Rahway, Bulletin 972, Item 3, and cases there cited. It would seem clear that issuing authorities not only have the power to determine such policy but, in the full and proper discharge of their duty, should give most careful and serious consideration to the adoption of a uniform policy with respect to this question of such vital concern to our citizens.

In the oral argument before me the attorney for respondent-licensee contended that, since the licensee had moved to the disputed location prior to the hearing on this appeal, its expenses in so

doing should be taken into consideration by me in arriving at my decision. I cannot agree. When the transfer of the license is the subject matter of an appeal a licensee moving to the new location in the interim does so at his peril.

I find that the grant of the application for transfer herein appealed from was arbitrary and in abuse of respondent Board's discretionary authority. Its action will, therefore, be reversed.

Accordingly, it is, on this 1st day of September, 1954,

ORDERED that the action of respondent Board granting application of the transfer of Plenary Retail Consumption License C-740 to respondent Rajah Liquors and from place-to-place is hereby reversed and such transfer declared null and void and that all operations thereunder cease forthwith.

WILLIAM HOWE DAVIS
Director.

3. RETAIL LICENSEES - "DRIVE-IN" LIQUOR STORE DISAPPROVED.

September 1, 1954.

Dear Sir:

In your letter of August 20th you ask, in effect, whether you may operate a so-called "drive-in" liquor store.

To this end, you plan to install a sliding window in the front of your liquor store so that automobilists on the road, coming up your driveway, may stop in front of this window and may there purchase alcoholic beverages from you without getting out of their car.

Presumably, your liquor license covers only your building and does not include the area outside the sliding window where automobilists are to stop and make their purchase. In such case, the transaction would technically constitute a sale off your licensed premises and would therefore be contrary to the terms of your license and to the Alcoholic Beverage Law (Bulletin 834, Item 2).

However, even if the area where the automobilist is to stop has nominally been made a part of your licensed premises, I greatly question the propriety of your plan. In this automobile age, there may well be public usefulness in the "drive-in" theatre, or "drive-in" bank, or various other "drive-in" establishments. But a "drive-in" liquor store, where the purchaser may remain in his car, is (if I may mix my metaphors) a horse of quite a different color and would be a public disservice and not a public good.

The mere existence of such a store would cater to the irresponsible "joy rider" on the road, and I see no point in deepening the problem of driving and drinking in this unnecessary way. Moreover, I fail to see how you or your help would adequately be able to determine whether the purchaser, seated behind the wheel in the automobile outside your sliding window, is a minor, or a "tipsy" person, or is someone else to whom you should not be selling alcoholic beverages.

These are common-sense considerations which indicate that the so-called "drive-in" liquor store is inconsistent with the best interests of liquor control, and I therefore thoroughly disapprove of your plan. From one of the members of my staff, I understand that you have, after speaking with him, decided to abandon this plan.

Let's be old-fashioned and require that automobilists driving up to buy a bottle must actually get out of their car and go into your liquor store where they may be adequately observed. Let's not cater to the automobilist's "convenience" at the expense of proper control. Let's not drive in wedges that may ultimately tend to drive out the liquor industry.

Very truly yours,
WILLIAM HOWE DAVIS

4. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - GAMBLING - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

LOUIS D. SALERNO
T/a GREENVILLE TAVERN
1595 Hudson Boulevard
Jersey City 5, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-212, issued by the
Municipal Board of Alcoholic
Beverage Control of the City of
Jersey City.

Herbert L. Zeik, 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 the following charges:

"1. On Sunday, June 27, 1954, you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., six cans of Piel's beer, at retail in their original containers for consumption off your licensed premises; in violation of Rule 1 of State Regulations No. 38.

"2. On Sunday, June 20, 1954, you allowed, permitted and suffered gambling, viz., the playing of a card game for stakes of money, in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20."

The file in the instant case discloses that on Sunday, June 20, 1954, at about 12:30 p.m., two ABC agents visited defendant's licensed premises. While in said premises they observed four male patrons seated at a table engaged in a card game, commonly known as "rummy." A small amount of money passed to the winner of each game.

On Sunday, June 27, 1954, two ABC agents visited defendant's licensed premises at which time one of the agents purchased six cans of beer from the bartender for off-premises consumption.

Defendant has no prior adjudicated record. I shall suspend his license for fifteen days on Charge 1 (Re Gallagher, Bulletin 1011, Item 6) and for an additional five days on Charge 2 (Re Smith, Bulletin 603, Item 7), making a total suspension of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 20th day of August, 1954,

ORDERED that Plenary Retail Consumption License C-212, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Louis D. Salerno, t/a Greenville Tavern, 1595 Hudson Boulevard, Jersey City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. August 30, 1954, and terminating at 2:00 a.m. September 14, 1954.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against)

BELLEVILLE HITCHING POST, CORP.)
T/a BELLEVILLE HITCHING POST)
200-212 Mill Street)
Belleville, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-26, issued by the)
Board of Commissioners of the Town)
of Belleville.)

Chester K. Ligham, Esq., Attorney for Defendant-licensee.
William F. Wood, 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, and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages at its licensed premises to minors, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that two ABC agents entered defendant's licensed premises at approximately 10:45 p.m. on Wednesday, August 4, 1954, at which time they saw four youths who were drinking beer served to them by a male bartender. The agents identified themselves and obtained a signed, sworn statement from each of the youths from which it appears that three of them were seventeen years of age and one was eighteen years of age; that none had been questioned as to his age; that two of them had been served and had consumed four glasses of beer and that the other two had been served and had consumed two glasses of beer. The bartender in a signed, sworn statement admitted serving beer to the minors but claimed that they had been in the licensed premises on a prior occasion and had exhibited credentials establishing that they were twenty-one years of age or over. However, he could not remember what kind of credentials they had exhibited. Since it appears that the minors did not falsely represent in writing that they were twenty-one years of age or over, defendant has not established a valid defense, pursuant to R. S. 33:1-77. Re Villa Valley Inn, Bulletin 1002, Item 1; Re Koper, Bulletin 962, Item 8.

Defendant has no prior adjudicated record. In view of the fact that the youngest minors involved were only seventeen years of age and considering the number of minors involved, I shall suspend defendant's license for twenty days. Re Buddy & Steve's Tavern, Inc., Bulletin 964, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 25th day of August, 1954,

ORDERED that Plenary Retail Consumption License C-26, issued by the Board of Commissioners of the Town of Belleville to Belleville Hitching Post, Corp., t/a Belleville Hitching Post, 200-212 Mill Street, Belleville, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. August 31, 1954, and terminating at 2:00 a.m. September 15, 1954.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

JOSEPH JOHN ZAYAK & IRENE A.
ZAYAK, t/a JOE'S TAVERN
201 Halladay Street
Jersey City 4, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-328, issued by the
Municipal Board of Alcoholic
Beverage Control of the City of
Jersey City.

Joseph John Zayak & Irene A. Zayak, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charge:

"On Friday, July 16, 1954 at about 10:55 P.M., you sold and delivered and allowed, permitted and suffered the sale, and delivery of alcoholic beverages, viz., 6 cans of Pabst beer, at retail in their original containers for consumption off your licensed premises; in violation of Rule 1 of State Regulations No. 38."

The file herein discloses that on Friday night, July 16, 1954, ABC agents entered defendants' licensed premises and, between 10:20 p.m. and 10:50 p.m., observed Joseph Zayak, one of the licensees, sell alcoholic beverages in original containers to four customers who took the containers off the premises. At 10:55 p.m. the agents asked for and received from Zayak six cans of Pabst to take home. For the six cans and two glasses of beer, they paid \$1.20. The agents left the tavern with their purchase and, returning immediately, made known their identity to Zayak who admitted the aforesaid sales but declined to give a written statement.

Defendants have no previous adjudicated record. I shall suspend defendants' license for a period of fifteen days. Re Marech, Bulletin 1020, Item 10. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 17th day of August, 1954,

ORDERED that Plenary Retail Consumption License C-328, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Joseph John Zayak & Irene A. Zayak, t/a Joe's Tavern, for premises 201 Halladay Street, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. August 24, 1954 and terminating at 2:00 a.m. September 3, 1954.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary)
 Proceedings against)

JOSEPH CYBULSKY & JENNIE CYBULSKY)
 T/a CEBBY CAFE)
 172 Monroe Street)
 Passaic, N. J.,)

CONCLUSIONS
 AND ORDER

Holders of Plenary Retail Consumption)
 License C-126, issued by the Board of)
 Commissioners of the City of Passaic.)

 Joseph Cybulsky & Jennie Cybulsky, Pro Se.
 William F. Wood, Esq., appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charge:

"On July 19, 1954, you possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises, an alcoholic beverage in a bottle which bore a label which did not truly describe its contents, viz.,

One 4/5 quart bottle labeled 'Canadian Club Blended Canadian Whisky 90.4 Proof;'

in violation of Rule 27 of State Regulations No. 20."

The file herein discloses that on July 19, 1954, an ABC agent entered defendants' licensed premises and tested and gauged thirty-six open bottles of liquor of assorted brands. The contents of all the bottles were apparently genuine as labeled excepting a partially filled 4/5 quart of purported "Canadian Club Blended Canadian Whisky" which appeared off color and was low in proof. The agent seized the bottle for analysis, and the Division chemist's report shows the contents to be not genuine as labeled.

Defendants have no previous adjudicated record. I shall suspend defendants' license for a period of fifteen days. Re Saur & MacIlwain, Bulletin 1000, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 17th day of August, 1954,

ORDERED that Plenary Retail Consumption License C-126, issued by the Board of Commissioners of the City of Passaic to Joseph Cybulsky & Jennie Cybulsky, t/a Cebby Cafe, for premises 172 Monroe Street, Passaic, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. August 24, 1954 and terminating at 3:00 a.m. September 3, 1954.

WILLIAM HOWE DAVIS
 Director.

8. AUTOMATIC SUSPENSION - SUSPENSION OF LICENSE BY LOCAL ISSUING
AUTHORITY ADEQUATE - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by)

FRANCIS A. PETERMAN)
T/a CRESCENT GARDEN CAFE)
6427 Crescent Boulevard)
Pennsauken Township, N. J.,)

ON PETITION
CONCLUSIONS AND ORDER

To Lift the Automatic Suspension)
of Plenary Retail Consumption)
License C-20, issued by the Township)
Committee of the Township of)
Pennsauken.)

Carl Kisselman, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

It appears from a verified petition filed herein and from the records of this Division that on August 10, 1954, petitioner was sentenced in the Camden County Court to six months in a County Jail, which sentence was suspended and petitioner fined \$250.00 after he had pleaded non vult to a charge of selling alcoholic beverages to minors in violation of R. S. 33:1-77. Said conviction resulted in the automatic suspension for the balance of its term of the license now held by petitioner. R. S. 33:1-31.1. The petition herein requests that the automatic suspension be lifted.

It further appears from the records of this Division that License C-20 for the 1953-54 licensing year was held by Marguerite E. Peterman and Francis A. Peterman; that on June 21, 1954, the Township Committee suspended said license for a period of fifteen days (less five days for the plea), effective from 2:00 a.m. June 22, 1954, until 7:00 a.m. July 2, 1954, after receiving a plea of non vult to a charge alleging the sale of alcoholic beverages to two minors who were respectively sixteen and seventeen years of age. The complaint in the criminal proceedings and the charge in the disciplinary proceedings are based upon the same facts.

From the petition herein it appears that Marguerite E. Peterman died on June 20, 1954; that the license for the present licensing year was renewed in the name of petitioner alone, and that no alcoholic beverage activities have been conducted to date under the renewed license.

Under all the circumstances, the suspension heretofore imposed by the Township Committee appears to be adequate and, hence, the relief sought herein will be granted.

Accordingly, it is, on this 24th day of August, 1954,

ORDERED that the automatic suspension of License C-20, now held by petitioner herein, be lifted, effective immediately.

WILLIAM HOWE DAVIS
Director.

9.

ACTIVITY REPORT FOR AUGUST, 1954

ARRESTS:

Total number of persons arrested - - - - -	38
Licensees and employees - - - - -	9
Bootleggers - - - - -	29

SEIZURES:

Motor vehicles - cars - - - - -	10
Stillis - over 50 gallons - - - - -	5
- 50 gallons or under - - - - -	2
Mash - gallons - - - - -	2674.50
Distilled alcoholic beverages - gallons - - - - -	210.06
Wine - gallons - - - - -	1.21
Brewed malt alcoholic beverages - gallons - - - - -	72.56

RETAIL LICENSEES:

Premises inspected - - - - -	1,121
Premises where alcoholic beverages were gauged - - - - -	334
Bottles gauged - - - - -	6,022
Premises where violations were found - - - - -	102
Violations found - - - - -	121
Type of violations found:	
Prohibited signs - - - - - 6	Other mercantile business - - - - - 14
Unqualified employees - - - - - 44	Disposal permits - - - - - 15
Probable fronts - - - - - 1	Other violations - - - - - 28
Reg. #38 sign not posted - - - - - 13	

STATE LICENSEES:

Premises inspected - - - - -	25
License applications investigated - - - - -	10

COMPLAINTS:

Complaints assigned for investigation - - - - -	426
Investigations completed - - - - -	449
Investigations pending - - - - -	139

LABORATORY:

Analyses made - - - - -	174
Bottles from unlicensed premises - - - - -	70

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made - - - - -	43
Persons fingerprinted for non-criminal purposes - - - - -	205
Identification contacts made with other enforcement agencies - - - - -	193
Motor vehicles identifications via N. J. State Police teletype - - - - -	4

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - -	15
Violations involved:	
Sale during prohibited hours - - - - - 10	
Sale to minors - - - - - 3	
Permitting females at bar (local reg.) - - - - - 1	
Permitting gambling (bookmaking) on prem. - - - - - 1	
Cases instituted at Division - - - - -	13
Violations involved:	
Sale to minors - - - - - 4	Sale to non-members by club - - - - - 1
Sale during prohibited hours - - - - - 3	Unqualified employee - - - - - 1
Permitting immoral activity on premises - - - - - 2	Employing criminally disq. person - - - - - 1
Possessing illicit liquor - - - - - 1	Wholesaler accepting unauth. returns - - - - - 1
Permitting lottery (raffle) on premises - - - - - 1	from retailer - - - - - 1
Unauthorized transportation - - - - - 1	Solicitor selling to consumers - - - - - 1
Cases brought by municipalities on own initiative and reported to Division - - - - -	5
Violations involved:	
Sale to minors - - - - - 4	
Sale during prohibited hours - - - - - 1	

HEARINGS HELD AT DIVISION:

Total number of hearings held - - - - -	34
Appeals - - - - - 7	Seizures - - - - - 4
Disciplinary proceedings - - - - - 12	Applications for license - - - - - 4
Eligibility - - - - - 7	

PERMITS ISSUED:

Total number of permits issued - - - - -	909
Employment - - - - - 197	Social affairs - - - - - 367
Solicitors - - - - - 62	Special wine - - - - - 1
Disposal of alcoholic beverages - - - - - 114	Miscellaneous - - - - - 168

WILLIAM HOWE DAVIS
Director.

Dated: September 2, 1954.

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

10. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1953 TO JUNE 30, 1954 AS
REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19
CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Number Surren- dered Expired	Number Licen- ses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	489	\$ 208,750.00	71	\$ 25,775.00	17	\$ 1,600.00						577	\$ 236,125.00
Bergen	816	303,366.16	298	84,537.00	89	8,237.33	56	\$ 2,605.00	11	\$ 3,004.49	7	1263	401,749.98
Burlington	187	74,531.00	35	9,252.47	40	5,686.85	1	25.00			2	261	89,495.32
Camden	456	218,247.37	82	31,925.00	89	6,650.41			2	750.00	2	607	257,572.78
Cape May	133	73,550.00	11	4,000.00	18	2,100.00						162	79,650.00
Cumberland	81	40,000.00	13	3,600.00	30	3,967.94						124	47,567.94
Essex	1376	765,454.11	351	205,700.00	106	14,475.34	30	1,500.00	2	1,500.00	7	1858	988,629.45
Gloucester	108	34,400.00	13	2,750.00	17	1,550.00						138	38,700.00
Hudson	1553	674,355.60	298	117,746.71	76	9,024.18	67	2,900.00				1994	804,026.49
Hunterdon	79	25,250.00	6	1,862.50	6	700.00						91	27,812.50
Mercer	426	258,650.00	51	21,000.00	53	7,500.00			1	92.50	2	529	287,242.50
Middlesex	634	304,008.12	74	22,670.00	84	7,346.40	4	200.00			2	794	334,224.52
Monmouth	551	278,151.29	122	42,681.05	34	4,058.70	11	460.00	55	24,085.95	31	742	349,436.99
Morris	365	123,296.42	98	30,550.00	49	4,552.81	21	1,050.00	12	2,886.15	8	537	162,335.38
Ocean	194	105,374.68	46	19,065.00	20	1,943.38						260	126,383.06
Passaic	876	358,580.00	167	51,370.00	38	4,542.61	11	525.00				1092	415,017.61
Salem	51	19,058.33	8	1,447.40	17	1,466.30			1	262.50	2	75	22,234.53
Somerset	187	77,488.50	39	10,416.92	25	2,598.08					1	250	90,503.50
Sussex	170	45,155.00	20	3,755.00	9	535.00	1	50.00	2	450.00	1	201	49,945.00
Union	556	292,583.56	145	59,500.00	72	8,106.10	33	1,600.00			1	805	361,789.66
Warren	148	42,555.00	17	4,157.50	30	3,130.00			4	641.66	2	197	50,484.16
Totals	9436	\$4,322,805.14	1965	\$753,761.55	899	\$99,771.43	235	\$10,915.00	90	\$33,673.25	68	12557	\$5,220,926.37

WILLIAM HOWE DAVIS
Director.

August 26, 1954

11. ELIGIBILITY - COMMERCIALIZED GAMBLING - NO MORAL TURPITUDE
INVOLVED UNDER CIRCUMSTANCE OF CASE.

August 20, 1954

Re: Case No. 654

Applicant seeks a determination as to whether or not he is eligible for employment by the holder of a liquor license in New Jersey because of his conviction of a crime.

It appears from the records received at this Division that on June 25, 1951 applicant pleaded non vult to a charge of conspiracy (bookmaking) as a result of which he was fined \$1,000.00 and sentenced to serve six months in a county prison.

The conspiracy (bookmaking) conviction resulted from applicant's activities whereby locations were secured where telephones might be rented to be used in receiving bets on horse races.

It has uniformly been held that one who has been convicted of commercialized gambling as a principal has been convicted of a crime involving moral turpitude. Re Case No. 653, Bulletin 1023, Item 13. The same is true where a person is a lieutenant or other important participant in such illegal activities. Re Case No. 645, Bulletin 987, Item 8; Re Case No. 635, Bulletin 946, Item 10.

Applicant testified that, although he directed the person to the premises which could be used for bookmaking activities, he never made any of the arrangements for the procurement of said premises nor did he at any time engage in the gambling activities. Furthermore, applicant said that he drove the principal in his (applicant's) car to the various places which had been hired and was paid a small salary for such services. I have no other information before me that contradicts applicant's story. Applicant has no other criminal conviction.

Under all the circumstances herein, I conclude that applicant is not disqualified, within the meaning of R. S. 33:1-25, 26, by reason of the conviction herein, from being employed by or connected with the holder of an alcoholic beverage license in this State and that he should be so informed.

Clarence E. Kremer
Attorney.

APPROVED:
WILLIAM HOWE DAVIS
Director.

12. DISCIPLINARY PROCEEDINGS - SALES TO MINORS -- SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

FRED ALDARELLI
T/a RICK'S BAR & GRILL
707 Bangs Avenue
Asbury Park, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-16, issued by the City Council of the City of Asbury Park.

Fred Aldarelli, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverages Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging (1) he sold, served and delivered alcoholic beverages to a minor, and permitted the consumption of such beverages by said minor in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20, and (2) he sold alcoholic beverages at retail in original containers for consumption off his licensed premises, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that at about 11:30 p.m. Saturday, July 24, 1954, ABC agents observed four young men who were taking turns in the purchase of beer at the bar of defendant's licensed premises. About 12:10 a.m. Sunday morning one agent ordered six cans of beer "to take out." The bartender, identified as Fred Aldarelli, the licensee, took six cans of Piel's from a cooler, put them in a paper bag and accepted \$1.05 from the agent. As the agents were leaving with the package, they noticed Aldarelli serving a fifth round of beer to the young men. Returning immediately, the agents made known their identity to Aldarelli and the youths, seized the beer in front of the young men, and made inquiry as to their ages. Donald ---, age 20, in a signed sworn statement made in the presence of the licensee, admitted he had been served several rounds of beer by Aldarelli without being questioned as to his age. The other young men were of full age. Aldarelli declined to give a written statement, but verbally admitted to the agents all of the aforesaid facts.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of ten days because of the violation set forth in charge (1) (Re Kelly, Bulletin 981, Item 5), and for an additional period of fifteen days because of the violation set forth in charge (2) (Re Gallagher, Bulletin 1011, Item 6). Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 25th day of August, 1954,

ORDERED that Plenary Retail Consumption License C-16, issued by the City Council of the City of Asbury Park to Fred Aldarelli, t/a Rick's Bar & Grill, for premises 707 Bangs Avenue, Asbury Park, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. September 7, 1954, and terminating at 3:00 a.m. September 27, 1954.

New Jersey State Library

William Howe Davis
Director