

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

BULLETIN 1921

July 30, 1970

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These objectors were requested to present affidavits delineating the specific complaints which were considered at the meeting of June 24. These affidavits contained specific instances of conditions which the Council considered constituted a general nuisance in the neighborhood. The reports indicated that, as a result of a large number of complaints, constant police attendance was required at all hours of the night, immediately outside the premises and in that area, both by the local Police Department and the Little Falls Police Department. Therefore, the Council determined that the said license should not be renewed because it was not in the public interest.

Upon filing of this appeal the Director entered an order on July 10, 1969, extending the term of the 1968-69 license then held by appellant, pending the determination of this appeal and the entry of a further order herein.

This is an appeal de novo with full opportunity afforded counsel to present testimony and cross-examine witnesses. Rule 6 of State Regulation No. 15.

The record discloses that these premises are separated from the Ro-Dee's tavern by an areaway and part of its premises is also located in the Township of Little Falls. In fact, the opposite side of Main Street facing the front entrance of this tavern is located in Little Falls Township.

It is of some significance that this Division was in receipt of a resolution adopted by the Township Committee of the Township of Little Falls endorsing the action taken by the Council. The resolution sets forth the following:

"WHEREAS, the Borough of North Caldwell, as the local issuing authority, has denied the applications of liquor license renewals of Ro-Dee's, 707 Main Street, North Caldwell, New Jersey and J and R Bar, a/k/a The Library, located at 711 Main Street, North Caldwell, New Jersey, which businesses are located just across the county line from the Township of Little Falls; and

"WHEREAS, the Township Committee of the Township of Little Falls has considered requests of residents from both the Borough of North Caldwell and the Township of Little Falls to endorse the action of the governing body of North Caldwell with respect to the aforesaid applications; and

"WHEREAS, the Township Committee of the Township of Little Falls has reviewed the matters and has found that the operation of both applicants at the aforesaid locations is inimical to the best interests of Little Falls and is deleterious to the health, safety and welfare of its citizens; now, therefore, be it

"RESOLVED by the Township Committee of the Township of Little Falls that it hereby endorses the action taken by the Borough of North Caldwell with respect to such applications; and, be it further

"RESOLVED that a true copy of this Resolution be forwarded to the Clerk of the Borough of North Caldwell."

Daniel D. Rickert, president of the corporate appellant, gave the following account: This tavern was first purchased by the appellant on April 1, 1968 and has been operated by it since that time. He knew that there were numerous complaints about the operation of these premises by the prior licensee and he sought to improve the nature of its patronage and the conduct of its operation. Although there have been "altercations" in these premises, he has tried to keep the premises "peaceful and friendly."

During the first six months of operation there was a considerable amount of noise which he could not control due to his "lack of experience". However, with his developing experience, he started to be selective of his patronage. He eliminated the "band" and he felt that that eliminated most of his trouble as it related to excessive noise. The complaints that he received were with respect to noise and illegal parking. No charges of any kind were filed against the licensee by the local police or Council. He has made major alterations to both the inside and outside of the premises.

On cross examination he admitted that the police appeared at least twenty times in connection with complaints and that, in addition, the police officers from the Little Falls Police Department were summoned to the tavern because of numerous complaints. He also admitted that his patrons were required to park in the surrounding area because there are no parking facilities provided for the patrons of this establishment.

Andrew Spaschak, employed by appellant as a part-time bartender, testified that he never witnessed any altercation or noticed any excessive noise. A patron of these premises before it was taken over by appellant, he noted that the appellant had made physical improvements to the premises and that it now attracted a higher type and more orderly patronage.

Clifton A. Speller, Jr., the Police Chief of North Caldwell, produced the police blotter which reflected complaints received from February 19, 1967 through June of 1969. However, he limited his testimony with respect to specific complaints received after April 1, 1968, when appellant assumed the operation of these premises.

On April 19, 1968 a complaint was received of disorderly patrons in the street in front of the premises. The patrol car responded and found the street empty.

On May 11, 1968 a complaint was received of a disturbance a couple of hundred feet from the outside of the premises.

On May 18, 1968 at 1:50 a.m. a complaint was received of noise and a disorderly patron. A patrol car was dispatched and found all quiet on arrival.

On May 23, 1968 at 10:00 p.m. an anonymous call was

received with respect to loud music at the premises. Police responded and directed appellant to reduce the noise.

On May 24, 1968 at 1:53 a.m. a complaint was received by the Police Department of Little Falls with respect to loud noise.

On June 7, 1968 at 12:40 a.m. a complaint was received of loud noise emanating from this tavern. Another complaint was received on the same date at 2:07 a.m.

On June 23, 1968 at 12:50 a.m. a complaint of disorderly patrons congregating in front of the tavern. A patrol car was dispatched and the people were dispersed.

On July 7, 1968 Little Falls police responded to a call that a fight was in progress. The fight was over on their arrival.

On July 12, 1968 police were dispatched because of complaints of disturbances.

On October 24, 1968 police responded to a call that a suspicious person was in the tavern.

The witness also noted that numerous other complaints were received by the local Police Department and the Police Department of Little Falls, some of which were made by anonymous persons.

The Chief estimated that since April, 1968, the local Police Department has received at least twenty-seven complaints of incidents occurring inside or immediately outside of the premises. He also stated that in his opinion, all of the complaints on the outside of the premises related to actions by patrons of either this tavern or of Ro-Dee's. I then asked him:

"Q In your opinion, as chief of police here and as a police officer for fourteen years, would you consider that this operation is a trouble spot?"

"A At the present time I don't think there is any trouble inside the bars, but there has been a great deal of trouble in the immediate vicinity."

He then amended his prior answer to state that from April, 1968 to date there have been a total of thirty-five complaints from various types of incidents in addition to the twenty-seven specific complaints reflected on the police blotter.

He stated that the general neighborhood in which these two taverns are located "has had an extraordinary number of complaints."

Allen J. Hughes, a local police officer, testified that he has responded on numerous occasions to complaints of disturbances at the premises. He recalled that in one instance there was a fight inside the tavern; on another occasion there was a fight immediately outside the premises.

On cross examination he asserted that most of the complaints came from neighbors who complained of loud noise and illegal parking. He also indirectly heard of complaints about patrons who, upon leaving the premises, congregated in the street.

Sergeant Robert W. Rousch, Jr., recalled three or four complaints regarding loud noise emanating from this tavern.

Police Chief John Berghorn of Little Falls Township, testified that his department has received many complaints, mostly concerned with noise, traffic violations and illegal parking by patrons of this tavern. He noted that Little Falls Township placed parking signs within thirty-five feet of the tavern and that they "disappeared quite a few times". He personally received numerous calls from neighbors from Little Falls, in the immediate area of the establishment.

Charles Rollwagen, the clerk of the Council, who is also the Borough Administrator and Treasurer, produced the minutes of the meeting which reflects the complaints made by the objectors to the renewal of appellant's application. He stated that their complaints related to illegal parking, noise and "carrying on" by patrons, all of which were not experienced prior to the present operation. The objectors were requested to produce sworn affidavits relating to specific incidents. These affidavits were considered by the Council at its special meeting of June 24, 1969, at which time the Council decided not to take any action on the application for renewal.

In his capacity as administrator and borough clerk, he personally received many complaints with reference hereto. The complaints fell into several categories: (a) parking problems, caused by illegal parking on the part of the patrons from the tavern; (b) loud noise; (c) the conduct of patrons of the facility after they left the premises. A meeting was held with Mr. Rickert, president of the corporate-appellant, during which he made him aware of the various complaints received, and he told Rickert that they had never received these complaints before the appellant had taken over the operation of these premises.

On cross examination the witness explained that the parking situation had deteriorated during the past few years because a gas station had been constructed on a four acre tract, where many of the vehicles had theretofore parked. Consequently, many of the patrons parked in prohibited zones. This has intensified the activities of the Police Department with respect to these parking violations. There is no municipal parking area in the immediate neighborhood. However, the primary reason, in his opinion, for the denial of the renewal application was because the Council considered the operation by appellant to be a nuisance based on the numerous complaints received.

John Montesano, who has lived near this tavern for the past forty-one years, complained of the parking violations by patrons of the establishment, as well as numerous incidents relating to noise, shouting and disturbances in the early hours of the morning. He stated that the patrons would leave the tavern at one-thirty or two o'clock in the morning in a loud and boisterous manner, would frequently "engage in altercations and commence to fight with one another." Since he has a

cardiac condition, "this to me is a matter of life and death."

He said he has frequently found contraceptives on his lawn and would be awakened on an average of two to four times a week because of the noise coming from this facility.

He described the area as a residential area with the exception of Main Street on which the tavern is located.

Lionel Coombs also complained about the noise and the parking and submitted a list of incidents occurring from April, 1968 involving this tavern to the Council with reference to the disposal of the garbage from this tavern. He noted that frequently there were beer cans, bottles and other articles strewn both in front and back of these premises.

Michael Zizak, a Little Falls resident, whose property faces the tavern, complained of beer bottles, glass and contraceptive devices strewn in front of the tavern and near his premises. With respect to the noise, he stated that on week ends "you are lucky if you are able to sleep there during the night. And this is a continuous commotion every evening of the week."

Helene F. Powell, a neighbor of the tavern for the past eighteen years, corroborated the testimony of the prior witness with respect to the traffic violation and noise emanating from this tavern, all of which affected her sleep and health. She also complained of the profanity used by the patrons. Finally, she pointed out that the Little Falls Police Department had ninety-seven calls and the North Caldwell Police Department had eighty-five calls because of illegal parking and other complaints.

It was also stipulated that four other witnesses who appeared on behalf of the Council at this plenary de novo hearing would, if called to testify, corroborate the testimony of the other witnesses who testified on behalf of the Council.

The crucial issue on this appeal is whether the record substantiated and justified the Council's action in refusing to renew appellant's license. The burden of proof in all these cases which involve discretionary matters, where the renewal of a license is sought, falls upon the appellant to show manifest error or abuse of discretion by the issuing authority. Nordco, Inc. v. State, 43 N.J. Super. 277, 287, (App. Div. 1957). As the court stated in Zicherman v. Driscoll, 133 N.J.L. 586, 587:

"The question of a forfeiture of any property right is not involved. R.S. 33:1-26. A liquor license is a privilege. A renewal license is in the same category as an original license. There is no inherent right in a citizen to sell intoxicating liquor by retail, Crowley v. Christensen, 137 U.S. 86, and no person is entitled as a matter of law to a liquor license. Bumball v. Burnett, 115 N.J.L. 254; Paul v. Gloucester, 50 Id. 585; Voight v. Board of Excise, 59 Id. 358; Meehan v. Excise Commissioners, 73 Id. 382; affirmed 75 Id. 557. No licensee has a vested right to the renewal of a license. Whether an original

license should issue or a license be renewed rests in the sound discretion of the issuing authority. Unless there has been a clear abuse of discretion this court should not interfere with the actions of the constituted authorities. *Allen v. City of Paterson*, 98 Id. 661; *Fornarotto v. Public Utility Commissioners*, 105 Id. 28. We find no such abuse. The liquor business is one that must be carefully supervised and it should be conducted by reputable people in a reputable manner. The common interest of the general public should be the guide post in the issuing and renewing of licenses."

I have had the opportunity to observe the demeanor of the witnesses as they testified at this hearing and am persuaded that the version given by the Council's witnesses was more forthright and credible. They testified with sincerity and conviction, and with a sense of public responsibility. Although the thrust of their testimony clearly indicated that the total nuisance situation was created by both the appellant and the Ro-Dee tavern, it is quite apparent that appellant's facility contributed in large measure to the general conditions delineated by these witnesses.

They pinpointed many instances involving profanity, altercations, loud noise during the early hours of the morning, an unduly large number of parking violations by its patrons, beer cans and bottles strewn in and about the premises, and other specific incidents which, in sum, constituted a general nuisance. These conditions affected the health and the welfare of the neighbors and were properly considered by the Council in its ultimate determination.

Appellant alleges that it did not violate any State regulation governing the conduct of licensees and use of licensed premises and that no disciplinary proceedings were instituted by the Council against it. It would have been a more satisfactory procedure for the Council to initiate such proceedings, upon specific charges, and to base its refusal to renew on an adjudicated record. However it is understandable that local issuing authorities, at times, withhold the institution of disciplinary charges with the expectation that, where warranted, licensees will make efforts to improve the conditions in the operation of the licensed business. This would appear to be the natural thing for a liquor licensee to do in order to protect his investment. Unfortunately, some licensees do not take the hint and consider that the failure of the issuing authority to take specific action as license for continued profligacy. As the court stated in *Downie v. Somerdale*, 44 N.J. Super. 84, 87:

"... Mr. Downie's contention seems to be that the borough council should have furnished him with some statement of its reasons to which he might take exception before the council came to its decision. But the law does not impose on the council an obligation of this sort. Mr. Downie perhaps thinks that on a hearing before the borough he was entitled to sit back and wait for it to put in its case. On the contrary,

upon such a hearing the burden of proof falls on the applicant the renewal of the license. Nordco, supra."

It is particularly significant that police calls were made according to testimony of all of the witnesses on at least thirty-five occasions, in addition to the numerous parking tickets issued by the Police Department during this period. In fact the record discloses that ninety-one parking summonses were issued in this immediate area between January 19, 1969 and August 31, 1969. The court in Nordco, Inc. v. State, supra (43 N.J. Super. at p. 283) agreed with the Director's finding therein that "the frequency of calls upon the police demonstrated of itself that the tavern had become a 'trouble spot'."

Appellant also asserts in its petition of appeal that the action of the Council was "based on complaints arising from incidents over which appellant had no control." By that it presumably refers to conditions and incidents which occurred outside the licensed premises.

However, as early as in Conte v. Princeton, Bulletin 139, Item 8, this Division has held that a licensee is responsible for conditions both in and outside the licensed premises thereof. Cf. Garcia v. Fair Haven, Bulletin 1149, Item 1. For a more detailed discussion of this principle, see Lyons Farms Tavern, Inc. v. Newark et al., 55 N.J. 292 (1970), reprinted in Bulletin 1905, Item 1. As the court stated in Nordco v. State, supra, (43 N.J. Super. at p. 284):

"... It seems to us entirely proper for both the local and the state agencies, when passing on such applications, to take into account not only the conduct of the licensee, but also conditions not attributable to its conduct, which render a continuance of a tavern in a particular location against the public interest."

In its consideration of this matter, it is clear that the Council was guided by the applicable principle enunciated in Tumulty v. Dunellen and Davis, (App. Div. 1963), not officially reported, reprinted in Bulletin 1519, Item 1, as follows:

"... The problem before the [Council] was what penalty to impose for what his investigators had discovered the licensees had done in the past. The problem before Dunellen, upon the application for the renewal of the license, was whether it was in the public interest that this establishment be licensed in the future. Subject to law and to the Director's right of review, a municipality has the power to set its own reasonable standards for the conduct of its licensees. We hold that Dunellen had the right to say that since these licensees permitted the things recited in the Director's 'Conclusions and Order' of June 13, 1962, they were not worthy to continue to hold their license and that it was not in the public interest that the license should be renewed..."

In the area of licensing, as distinguished from disciplinary proceedings, the determinative consideration is the public interest in the creation or continuance of the license operation, not the fault or merit of the licensee. In the matter of licensing, the responsibility of a local issuing authority is "high", its discretion "wide" and its guide "the public interest". Lubliner v. Paterson, 33 N.J. 428, 446 (1960). A renewal license is in the same category as an original license. Zicherman v. Driscoll, *supra*.

Thus, in this matter, entirely apart from the appellant's alleged culpability with respect to the deleterious conditions which surrounded this establishment, the broad question posed before the Council on the subject application for renewal was whether in the light of all the surrounding circumstances and conditions it was good for North Caldwell and the neighborhood involved for this tavern to continue to exist at this particular location at all. The objective judgment of the Council was that its continuance would be inimical to the public interest.

There is no persuasive evidence to indicate any improper motivation on the part of the Council in its action, and there appears to be substantial evidence to support its determination herein. Hornauer v. Div. of Alcoholic Beverage Control, 40 N.J. Super. 501.

The Director's function on appeal is not to substitute his personal opinion for that of the issuing authority but merely to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of his personal view. Tumulty v. Dunellen, Bulletin 1487, Item 4. Indeed, as the court stated in Lyons Farms Tavern, Inc. v. Newark et al., *supra*:

"... Our penetrating review of all the evidence was engaged in by retreating to the fundamental issue in these cases: Did the decision of the local board represent a reasonable exercise of discretion on the basis of evidence presented? If it did that ends the matter of review both by the Director and by the courts...."

I find from my examination and assessment of the total record herein, that the Council's determination was supported by substantial evidence and that it acted circumspectly in the public interest in its discretion to refuse to renew appellant's license for the current licensing year. Further, I conclude that appellant has not established that the action of the Council was erroneous and should be reversed. Rule 6 of State Regulation No. 15.

It is, therefore, recommended that the Council's action be affirmed and that the appeal herein be dismissed.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record, including the transcripts of the testimony, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 9th day of June 1970,

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 the order dated July 10, 1969, extending the term of appellant's 1968-69 license pending the determination of the appeal be and the same is hereby vacated.

RICHARD C. McDONOUGH
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against)

Myron Gilbert)
t/a Spring Brook Place)
State Highway Rt. #46 below Delaware)
Knowlton Township, PO Columbia, N.J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Knowlton.)

Licensee, Pro se.
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded non vult to the first of the following charges and not guilty to the second charge:

- "1. On September 16, 1969, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Gary ---, age 17; in violation of Rule 1 of State Regulation No. 20.
- "2. On October 5, 1969, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., John ---, age 17 and Richard ---, age 18, in violation of Rule 1 of State Regulation No. 20."

This report will consider the testimony solely with respect to the second charge, presented on behalf of the Division by a State trooper and the two minors involved.

Richard --- testified that on October 5, 1969 he was eighteen years of age. He was born on November 18, 1950. John --- testified that he was born on April 2, 1952, and was seventeen years of age on the date alleged herein.

James F. Phillips (employed by the New Jersey State Police) gave the following account: In the course of an official investigation, to which he was assigned with respect to a prior incident at the licensed premises, he visited this tavern on October 5 at approximately 10:30 p.m. accompanied by Trooper McCann. He observed the two minors above named and a companion playing the pinball machine and noted three bottles of beer on the bar directly across from these individuals. Upon questioning them with respect to their ages, he ascertained through identification that two were minors; and he also smelled the odor of alcohol on their breath. He then questioned the licensee, who stated that he had served the beer to the two minors on the verbal representation of their companion (identified as Bruce Hartag) that "they were of age". The licensee also admitted that he had not asked for any proof of age from any of the individuals. Trooper Phillips asserted that the minors were approximately fifteen feet from the bar where the beer bottles and half-filled glasses were located, and that there was only one other patron in the premises who was seated at the other end of the bar.

Myron Gilbert (the licensee), testifying in defense of the charge, denied serving alcoholic beverages to the minors. He maintained that the minors, accompanied by their adult companion, entered the premises about ten or ten-thirty p.m. and were there for about five minutes before the State troopers arrived. When the troopers questioned them, the minors also denied being served or consuming any alcoholic beverages.

On cross examination the licensee admitted that two bottles of beer and a bottle of ale were on the bar near where the minors were playing the pinball machine, but insisted that at some earlier time that evening other patrons were served and that these bottles may have been served to them. He also stated, "Maybe one of them belongs to this gentleman here I am talking to." He could not explain, however, why three bottles of beer were on the bar, except "There was one fellow there that was drinking that same kind of beer, but I can't figure out why he had two bottles in front of him then, unless one of them was empty and the other one was partly filled and I didn't take it away." Finally, he could not explain why the bottles of beer were partly filled except that the alleged patron who had left the premises did not consume the entire contents thereof.

We are dealing with a disciplinary measure and its alleged infraction. Such measures are civil in nature and not criminal. Thus the proof must be supported by a fair preponderance of the credible evidence only. Butler Oak Tavern v. Div. of Alcoholic Beverage Control, 20 N.J. 373 (1956); Hornauer v. Div. of Alcoholic Beverage Control, 40 N.J. Super. 501 (1956).

Since there is a complete denial by the licensee that he served alcoholic beverages to minors on the date alleged, it is not necessary to consider whether or not any written representation of age was requested or obtained from the said minors at that time. Rule 1 of State Regulation No. 20 states in pertinent part:

"No licensee shall sell, serve or deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, directly or indirectly, to any person under the age of twenty-one (21) years..."

My evaluation of the testimony herein convinces me that the account given by the State trooper is credible and forthright and truly depicts what actually happened. On the other hand, the licensee's testimony does violence to common experience and is totally incredible. The emperic facts indicate that three bottles of alcoholic beverages were on the bar near where the two minors were stationed and that no other patrons were present in that immediate area. The contents of the bottles were partly consumed, and it is logical to believe that they were sold and delivered to the minors. I further believe the trooper's testimony that the licensee admitted serving the minors upon their companion's representation that they were of statutory maturity.

Accordingly, it is recommended that the licensee be found guilty of the second charge.

Licensee has a prior adjudicated record of suspension of license by the municipal issuing authority for ten days effective November 9, 1965 for sale to a minor.

It is further recommended that the license be suspended on the first charge for twenty days (Re Schmidt, Bulletin 1864, Item 8) and on the second charge (considered as a second similar violation within the past five years (Re Malakauskas, Bulletin 1749, Item 3)) for thirty days (cf. Re D'Angelo, Bulletin 1804, Item 3), to which should be added ten days by reason of the third similar violation occurring within the past five years (cf. Re LaFreda & Olive, Bulletin 1824, Item 2), making a total suspension of sixty days.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 9th day of June 1970,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Knowlton to Myron Gilbert, t/a Spring Brook Place, for premises State Highway Rt. #46 below Delaware, Knowlton, be and the same is hereby suspended for the balance of its term, viz., until

midnight June 30, 1970, commencing at 7 a.m. Monday, June 22, 1970; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 7 a.m. Friday, August 21, 1970.

RICHARD C. McDONOUGH
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Welcome Tavern, Inc.)
911 New York Avenue)
Union City, N. J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-10, issued by the Board of Commissioners of the City of Union City.)

Edward C. Gunther, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on divers days between April 15 and May 4, 1970 it permitted the acceptance of 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 Kochmar, Openshaw and Openshaw, Bulletin 1899, Item 12.

Accordingly, it is, on this 8th day of June 1970,

ORDERED that Plenary Retail Consumption License C-10, issued by the Board of Commissioners of the City of Union City to Welcome Tavern, Inc., for premises 911 New York Avenue, Union City, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1970, commencing at 3 a.m. Wednesday, June 24, 1970; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 3 a.m. Tuesday, August 18, 1970.

RICHARD C. McDONOUGH
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - HINDERING INVESTIGATION - FALSE STATEMENT IN LICENSE APPLICATION - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Carmine Palumbo)
t/a Roseland Casino)
79 Lodi Street)
Hackensack, N. J.)

Holder of Plenary Retail Consumption License C-48, issued by the City Council of the City of Hackensack,)

and extended during the pendency of these proceedings to)

Livia Palumbo, Executrix of the Estate of Carmine Palumbo, deceased)
t/a Roseland Casino,)

for the same premises for the balance of its term, viz., until midnight, June 30, 1970.)

CONCLUSIONS

AND

ORDER

Joseph V. Melillo, Esq., Attorney for Licensee Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

By Notice dated August 8, 1969, the Division preferred charges against the above named Carmine Palumbo, alleging that (1) on Sunday, July 13, 1969, he sold twelve cans of beer for off-premises consumption, in violation of Rule 1 of State Regulation No. 38, (2) on the same date he hindered the investigation by the Division agents by verbal interference and by refusal to furnish requested information, in violation of Rule 35 of State Regulation No. 20, and (3) in his application for current license he failed to disclose a record of two previous suspensions of license held by him, in violation of R.S. 33:1-25.

Under date of February 18, 1970, Carmine Palumbo entered a plea of non vult to the charges. Prior to determination of the matter, viz., on March 30, 1970, Carmine Palumbo died. Thereupon, the license automatically lapsed and the disciplinary proceedings came to an end. Re Brennan, Bulletin 113, Item 1. However, the City Council of the City of Hackensack adopted a resolution on May 18, 1970 reviving the license by extending it for the balance of its term, viz., until midnight, June 30, 1970, in the name of Livia Palumbo, Executrix of the Estate of Carmine Palumbo, deceased. This revival of license resulted in the reactivation of the disciplinary proceedings herein against Carmine Palumbo. Rules 1, 2 and 3 of State Regulation No. 16.

Carmine Palumbo had a record of two previous suspensions of licenses by the municipal issuing authority, (1) for two days, effective January 23, 1956, for permitting

alcoholic beverage activity on the licensed premises during hours prohibited by local regulation, and (2) for twelve days, effective November 5, 1956, for sale of alcoholic beverages during prohibited hours, in violation of Rule 1 of State Regulation No. 38, these being the subject matter of the third charge.

The license will be suspended on the first charge, the two suspensions for similar violations occurring more than ten years ago disregarded, for fifteen days (Re McCarthy, Bulletin 1899, Item 16), on the second charge for ten days (Re Triple Lake Ranch, Inc., Bulletin 1676, Item 3), and on the third charge for ten days (Re Chip's Bar, Inc., Bulletin 1896, Item 7), or a total of thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days.

Accordingly, it is, on this 5th day of June 1970,

ORDERED that Plenary Retail Consumption License C-48, issued by the City Council of the City of Hackensack to Carmine Palumbo, t/a Roseland Casino, for premises 79 Lodi Street, Hackensack, and extended by said City Council by resolution adopted May 18, 1970 to Livia Palumbo, Executrix of the Estate of Carmine Palumbo, deceased, for the same premises, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1970, commencing at 2:00 a.m. Monday, June 22, 1970; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Wednesday, July 22, 1970.

RICHARD C. McDONOUGH
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Stanley C. Mitchell and)
Frances V. Mitchell)
Hancock's Bridge Road)
Elsinboro Township)
P.O. Salem, N. J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Elsinboro.)
-----)

Wilinski, Coruzzi & Suski, Esqs., by Robert Wilinski, Esq.,
Attorneys for Licensees
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on February 6, 1970 they sold three containers of beer to a minor, age 19, in violation of Rule 1 of State Regulation No. 20.

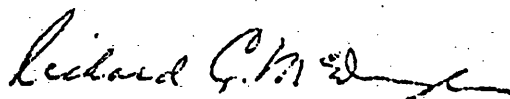
Licenseses have a previous record of two suspensions of licenses by the municipal issuing authority (1) for five days commencing March 29, 1948, for sale of alcoholic beverages during prohibited hours, and (2) for twenty days commencing March 18, 1957, for sale to minors, both in violation of State regulations.

The prior record of suspension for dissimilar violation in 1948 occurring more than five years ago and for similar violation occurring more than ten years ago disregarded, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Cadwalder Liquors, Inc., Bulletin 1906, Item 12.

Accordingly, it is, on this 8th day of June 1970,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Elsinboro to Stanley C. Mitchell and Frances V. Mitchell, for premises on Hancock's Bridge Road, Elsinboro, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1970, commencing at 1 a.m. Tuesday, June 23, 1970; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 1 a.m. Friday, July 3, 1970.



Richard C. McDonough
Director