

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

BULLETIN 956

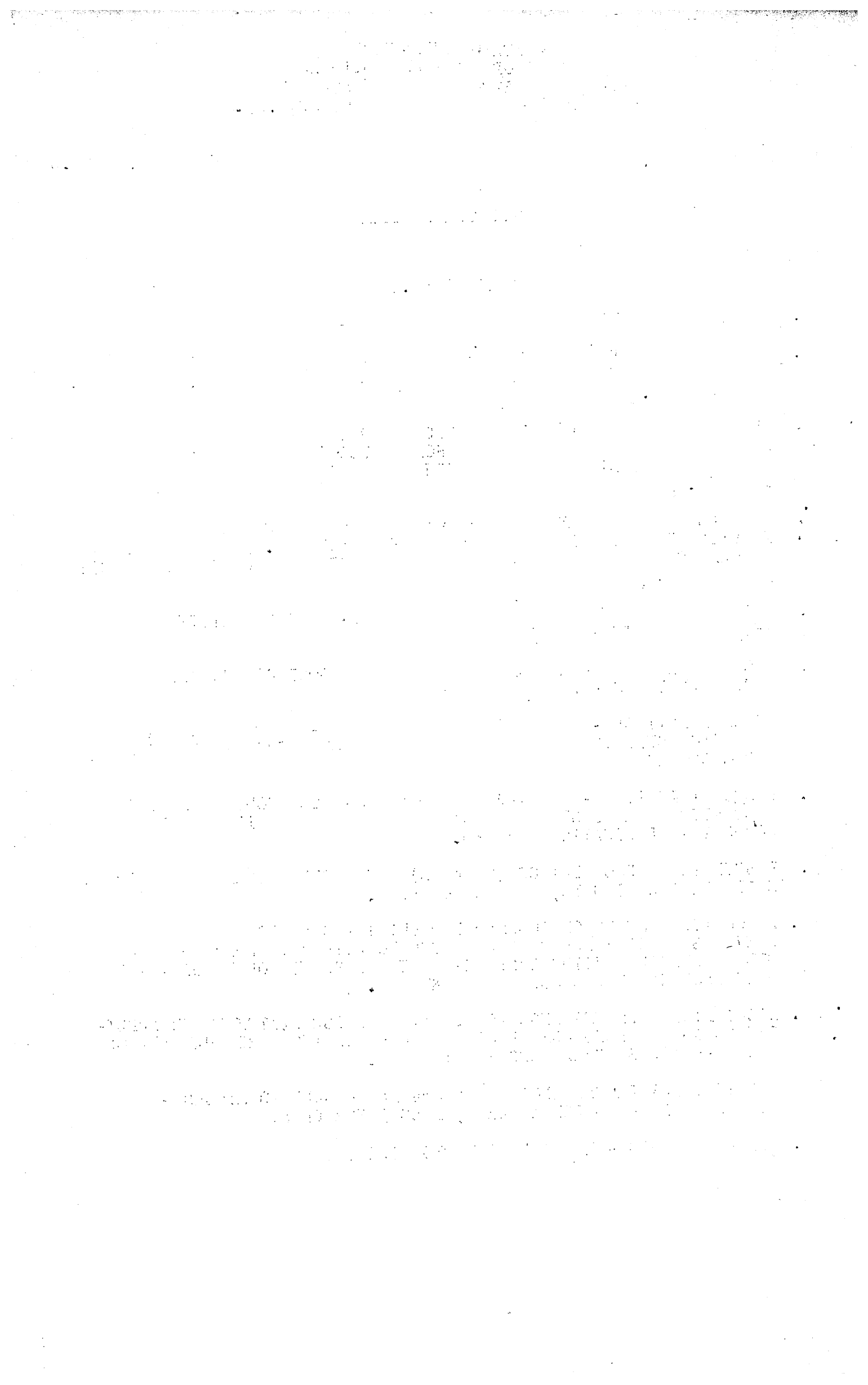
FEBRUARY 16, 1953.

TABLE OF CONTENTS

ITEM

1. ACTIVITY REPORT FOR JANUARY 1953.
2. MINIMUM CONSUMER RESALE PRICE PAMPHLET - NOTICE OF PUBLICATION.
3. DISCIPLINARY PROCEEDINGS (Somerdale) - LEWDNESS AND IMMORAL ACTIVITIES - STRIP TEASE DANCE - PRIOR RECORD - LICENSE SUSPENDED FOR 50 DAYS.
4. AUTOMATIC SUSPENSION (Jersey City) - SALE TO MINORS - LICENSE SUSPENDED BY LOCAL ISSUING AUTHORITY FOR 10 DAYS - ORDER ENTERED LIFTING SUSPENSION AT EXPIRATION OF 30 DAYS FROM EFFECTIVE DATE THEREOF.
5. DISCIPLINARY PROCEEDINGS (Newark) - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 AND LOCAL REGULATIONS - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
6. DISQUALIFICATION - APPLICATION TO LIFT - LENGTHY CRIMINAL RECORD - APPLICATION DENIED.
7. DISQUALIFICATION - APPLICATION TO LIFT - GOOD CONDUCT DURING PAST FIVE YEARS - APPLICATION GRANTED.

MORAL TURPITUDE - COMMERCIALIZED GAMBLING - CRIME OF OPERATING A GAMBLING ESTABLISHMENT HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.
8. DISQUALIFICATION - APPLICATION TO LIFT - GOOD CONDUCT DURING PAST FIVE YEARS DESPITE RECENT CONVICTIONS FOR DISORDERLY CONDUCT - APPLICATION GRANTED.
9. DISCIPLINARY PROCEEDINGS (Trenton) - UNLABELED BEER TAP - LICENSE SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.
10. AUTOMATIC SUSPENSION (Monroe Township) - SALE TO MINORS - LICENSE PREVIOUSLY SUSPENDED BY LOCAL ISSUING AUTHORITY FOR 5 DAYS - ORDER ENTERED LIFTING SUSPENSION AT EXPIRATION OF 10 DAYS FROM DATE UPON WHICH LICENSE WAS PICKED UP.
11. DISCIPLINARY PROCEEDINGS (Cape May) - FALSE STATEMENT IN APPLICATION AS TO RESIDENCE OF STOCKHOLDER HOLDING MORE THAN 10% OF STOCK - LICENSE SUSPENDED FOR 10 DAYS.
12. DISCIPLINARY PROCEEDINGS (West Orange) - SALE TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
13. STATE LICENSES - NEW APPLICATIONS FILED.



STATE OF NEW JERSEY
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 DIVISION OF ALCOHOLIC BEVERAGE CONTROL
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BULLETIN 956

FEBRUARY 16, 1953.

1. ACTIVITY REPORT FOR JANUARY 1953.

ARRESTS:			
Total number of persons arrested	-----	15	
Licensees and employees	----- 8		
Bootleggers	----- 7		
SEIZURES:			
Stills - 50 gallons or under	-----	1	
Mash - gallons	-----	90.00	
Distilled alcoholic beverages - gallons	-----	.58	
Wine - gallons	-----	3.68	
RETAIL LICENSEES:			
Premises inspected	-----	1,017	
Premises where alcoholic beverages were gauged	-----	940	
Bottles gauged	-----	16,893	
Premises where violations were found	-----	98	
Violations found	-----	106	
Type of violations found:			
Unqualified employees	----- 25	Gambling devices	----- 4
Reg. #38 sign not posted	----- 10	Other mercantile business	----- 1
Disposal permit necessary	----- 6	Other violations	----- 60
STATE LICENSEES:			
Premises inspected	-----	21	
License applications investigated	-----	4	
COMPLAINTS:			
Complaints assigned for investigation	-----	414	
Investigations completed	-----	397	
Investigations pending	-----	84	
LABORATORY:			
Analyses made	-----	105	
Refills from licensed premises - bottles	-----	2	
Bottles from unlicensed premises	-----	16	
IDENTIFICATION BUREAU:			
Criminal fingerprint identifications made	-----	10	
Persons fingerprinted for non-criminal purposes	-----	169	
Identification contacts made with other enforcement agencies	-----	160	
Motor vehicle identifications via N. J. State Police teletype	-----	18	
DISCIPLINARY PROCEEDINGS:			
Cases transmitted to municipalities	-----	6	
Violations involved:			
Sale during prohibited hours	----- 4		
Sale to minors	----- 1		
Permitting bookmaking on premises	----- 1		
Cases instituted at Division	-----	29	
Violations involved:			
Sale to minors	----- 12	Mislabeling beer taps	----- 1
Sale during prohibited hours	----- 4	Possessing contraceptives on premises	----- 1
Permitting immoral activity on premises	----- 4	Permitting foul language on premises	----- 1
Fraud and front	----- 4	Permitting lottery (raffle) on premises	----- 1
Permitting gambling (dice game)	----- 2	Employing female bartender (local reg.)	----- 1
Possessing illicit liquor	----- 2	Conducting business as a nuisance	----- 1
Act or happening	----- 2	Permitting hostesses on premises	----- 1
Sale outside scope of license	----- 1	Failure to report retailer in default	----- 1
Sale below minimum resale price	----- 1	Delivery to retailer on Default List	----- 1
Cases brought by municipalities on own initiative and reported to Division	-----		17
Violations involved:			
Sale to minors	----- 6	Sale during prohibited hours	----- 3
Permitting brawls on premises	----- 3	Permitting minors on licensed premises	----- 2
Permitting gambling (cards, dice, wagering, number writing)	----- 3	Permitting immoral activity on premises	----- 1
		Possessing slot machines on premises	----- 1
HEARINGS HELD AT DIVISION:			
Total number of hearings held	-----		37
Appeals	----- 2	Seizures	----- 5
Disciplinary proceedings	----- 23	Tax revocation	----- 1
Eligibility	----- 5	Application for license	----- 1
PERMITS ISSUED:			
Total number of permits issued	-----		663
Employment	----- 140	Social affairs	----- 231
Solicitors	----- 68	Special wine	----- 10
Disposal of alcoholic beverages	----- 114	Miscellaneous	----- 100

Dated: February 2, 1953.

DOMINIC A. CAVICCHIA
 DIRECTOR

2. MINIMUM CONSUMER RESALE PRICE PAMPHLET - NOTICE OF PUBLICATION

February 2, 1953

The next complete and official publication of minimum consumer resale prices pursuant to Regulations No. 30 will become effective on April 1, 1953. Prices to be listed must be filed with the office of this Division not later than 4:00 P.M. of February 20, 1953. It is extremely important to note the following:

1. A listing of minimum consumer resale prices covering every brand and item sold to retailers in this state must be made either by the manufacturer or wholesaler who owns the brands; or a wholesaler who sells the brands and has written authorization from the owner of the brands to file price listings; or by any wholesaler who sells a brand whose owner does not file or is unable to file a schedule or designate an agent for such purposes, provided my approval is obtained for such filing. Each schedule of minimum consumer resale prices submitted by a manufacturer or wholesaler not owning the designated brands must be accompanied by an affidavit certifying that the lister has been authorized to file prices for such designated brands. Note particularly that every wholesaler is not required to file minimum consumer prices.
2. Manufacturers or wholesalers are not required to file a schedule of minimum consumer resale prices for any brand sold exclusively to one New Jersey retailer.
3. Where listers of brands choose to publish a permissive case lot discount of either 5 or 10 per cent, the phrase "Discount of ___% permitted on case lot purchases" should be used.
4. True copies of labels or photostats of labels of brands to be listed in the Minimum Consumer Resale Price Pamphlet must be submitted with the schedule of price listings, if such labels have not been previously submitted. (A separate label for each type listed under a brand name and each label must be attached to a separate letterhead.)
5. Price listings may be submitted by letter in the same form as heretofore.

NOTE OF CAUTION AND WARNING: ANY BRAND OF ALCOHOLIC BEVERAGE NOT LISTED IN THE MINIMUM CONSUMER RESALE PRICE PAMPHLET TO BECOME EFFECTIVE APRIL 1, 1953 MAY NOT BE SOLD TO A NEW JERSEY RETAILER BY ANY MANUFACTURER OR WHOLESALER ON AND AFTER APRIL 1, 1953.

Notification of the proportionate share of aggregate expenses involved in the publication of the new complete Minimum Consumer Resale Price Pamphlet will be made to participating listers as soon as the pamphlet is mailed to all retail licensees.

DOMINIC A. CAVICCHIA
Director

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES - STRIP TEASE DANCE - PRIOR RECORD - LICENSE SUSPENDED FOR 50 DAYS.

In the Matter of Disciplinary Proceedings against)

NICK'S MUSICAL BAR CORP.)
344 White Horse Pike)
Somerdale, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Mayor and Council of the Borough of Somerdale.)

I. V. DiMartino, Esq., Attorney for Defendant-licensee.
Edward F. Amborse, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On Friday night, November 7, 1952 and early Saturday morning, November 8, 1952, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises in that a female entertainer, known as Hazel Blunt, performed in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulations No. 20."

The file herein discloses that during a visit to defendant's licensed premises on the evening of November 7 and early morning of November 8, 1952, ABC agents witnessed a floor show presented for the entertainment of patrons. One of the acts consisted of a female entertainer attired in a black gown. Upon the front of the gown, at a part which covered the pelvic region of her body, was a red wooden heart containing three electric light bulbs. The latter were connected to a battery located in a red feathered muff which was carried by the entertainer in her right hand. Each time she mentioned the title of the song during the singing thereof she would cause the bulbs to light. After conclusion of the song, the female entertainer removed her clothing with the exception of a black bra which partially covered her breasts and black fringe panties with panels covering the lower part of her body. She began to execute a vigorous dance consisting of bumps and grinds. During the performance, persons in the audience became very boisterous and excited.

After the ABC agents identified themselves, they spoke to Nicholas Petite, president of defendant-corporation, and to the female performer. Both admitted that the performance in question was "risque".

In attempted mitigation, defendant's attorney has stated (in part):

"I would also like to point out that the act which was charged to be lewd was a woman who appears under the name of 'Harzell'. It is sometimes very difficult for the proprietor of an establishment to see the acts which appear in his establishment prior to the time when they actually appear. In this particular case, the act was secured through a booking agent and Mr. Petite nor anyone in his employ had the opportunity to see the act prior to the night in question. I

understand that the union rules prevent auditions and it is also difficult to audition the act at any rate because in many instances the act must come from distant places and does not arrive at the establishment until the day of the scheduled performance. Mr. Petite saw the act for the first time the same time that the agents of the Division of Alcoholic Beverage Control did. Upon being told that the act was at least suggestive, Mr. Petite immediately dismissed the woman who was performing the act. She performed only one performance in the establishment."

In answer I repeat what I said in Re Hyett, Bulletin 947, Item 2:

"But this explanation skirts the fundamental principle that a licensee is fully responsible for the conduct of entertainers upon his licensed premises. See Re Primiceri, Bulletin 916, Item 3, citing Guastamachio v. Brennan, 128 Conn. 356, 23 A. 2d 140 (Sup. Ct. of Err. Conn. 1941). I am constrained to point out that a licensee holds too lightly the privilege of his license if he is willing to risk his continued enjoyment of it by the blind booking of entertainment. And when, as here, the bounds of decency have been overreached and the Regulations accordingly violated, the injudicious licensee must suffer the consequences."

It has been said repeatedly that entertainment of the type upon which the charge herein was based will not be tolerated on liquor-licensed premises. Re Bushkoff, Bulletin 896, Item 4. Defendant has experienced the attitude of the Director in that regard. Effective April 21, 1952, its license was suspended for fifteen days for permitting a male entertainer to perform in an indecent manner. Re Nick's Musical Bar Corp., Bulletin 933, Item 4.

Ordinarily, the minimum penalty for an unaggravated first offense of this type is thirty days. Cf. Re DiAngelo, Bulletin 753, Item 4; Re Bajewicz, Bulletin 902, Item 4; Re Corma, Bulletin 913, Item 4; Re Primiceri, supra; Re Cliquot Club, Inc., Bulletin 943, Item 2.

In view of defendant's prior record, I shall suspend its license for a period of fifty days. Defendant originally pleaded not guilty to the charge but at the opening of the hearing scheduled herein, it requested permission to withdraw that plea and to enter a plea of non vult. Therefore, the remission usually granted in cases where the plea is received sufficiently in advance of the hearing will not be allowed. Cf. Re Jagielski, Bulletin 593, Item 6; Re Yoches, Bulletin 855, Item 3; Re Sirvent, Bulletin 938, Item 8; Re Spinelli, Bulletin 948, Item 3.

Accordingly, it is, on this 26th day of January 1953,

ORDERED that plenary retail consumption license C-5, issued by the Mayor and Council of the Borough of Somerdale to Nick's Musical Bar Corp., 344 White Horse Pike, Somerdale, be and the same is hereby suspended for a period of fifty (50) days, commencing at 2 a.m., February 2, 1953, and terminating at 2 a.m., March 24, 1953.

DOMINIC A. CAVICCHIA
Director

- 4. AUTOMATIC SUSPENSION - SALE TO MINORS - LICENSE SUSPENDED BY LOCAL ISSUING AUTHORITY FOR 10 DAYS.- ORDER ENTERED LIFTING SUSPENSION AT EXPIRATION OF 30 DAYS FROM EFFECTIVE DATE THEREOF.

In the Matter of a Petition by)
 JOHN CRITELLI)
 T/A JOHNNY'S TAVERN)
 178 Griffith Street)
 Jersey City, New Jersey)

ON PETITION
 ORDER

To Lift the Automatic Suspension)
 of Plenary Retail Consumption)
 License C-356, issued by the Mu-)
 nicipal Board of Alcoholic Bever-)
 age Control of the City of Jervey)
 City.)

 Samuel Moskowitz, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

It appears from a petition filed herein that on January 9, 1953, petitioner pleaded non vult in the Hudson County Court to an indictment alleging that he sold alcoholic beverages to four minors in violation of R.S. 33:1-77, and was fined the sum of \$200 and costs. The records of this Division indicate that on January 16, 1953, at 12:25 p.m., ABC agents picked up petitioner's license because, under the provisions of R.S. 33:1-31.1, his license was automatically suspended for the balance of its term. The petition prays that the automatic suspension may be lifted.

It also appears from the records of this Division that on October 22, 1952 the Municipal Board of Alcoholic Beverage Control of the City of Jersey City suspended petitioner's license for fifteen days (less five days for the plea) after he had pleaded guilty in disciplinary proceedings to charges alleging that he had sold alcoholic beverages to eight minors and that said suspension was effective from November 3, 1952, to November 13, 1952.

Despite the ten-day penalty imposed by the local Board, I shall not lift the automatic suspension at this time. The purpose of the automatic suspension is to insure that when a licensee is convicted in a criminal court there is swift and sure penalty against his license. In view of such purpose it has been the policy to lift such suspension when, and only when, the license has been suspended for what appears, in view of all the facts, to be a sufficiently penalizing length of time. Re Panasevitz, Bulletin 485, Item 3. This case concerns the sale of alcoholic beverages to eight minors (two of whom were 16 years of age, one of whom was 17 years of age, three of whom were 18 years of age, and two of whom were 19 years of age). In view of the large number of minors and the tender ages of several of them, the penalty imposed by the local Board was inadequate. Under the circumstances, and taking into account the confessional plea entered by the licensee before the local Board, I shall not lift the automatic suspension until the license shall have been suspended for a total of forty days, including the ten-day suspension penalty imposed by the local Board and already served. Thus I shall not lift the automatic suspension until thirty days have elapsed from the date upon which the automatic suspension became effective.

Accordingly, it is, on this 3rd day of February, 1953,

ORDERED that the automatic suspension of the license referred to herein be lifted at 1:00 p.m. on Sunday, February 15, 1953. In the meantime, the statutory automatic suspension of the license shall remain in full force and effect.

DOMINIC A. CAVICCHIA
Director

5. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 AND LOCAL REGULATIONS - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

PHILIP BLACK)
203-205 West Kinney Street)
Newark 3, New Jersey,)

Holder of Plenary Retail Consumption License C-258, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

CONCLUSIONS AND ORDER

Saul C. Schutzman, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that he (1) sold and delivered alcoholic beverages at retail in original containers for off-premises consumption on Sunday, in violation of Rule 1 of State Regulations No. 38, and (2) sold and delivered alcoholic beverages between 3 a.m. and 12 o'clock noon on Sunday, in violation of a local ordinance.

On Sunday, December 14, 1952, at about 10 a.m., an ABC agent followed a man who entered the side entrance to defendant's premises and saw defendant hand a bottle of whiskey to this man. The agent tried to purchase a pint of whiskey but defendant told him that he could not sell before Monday and that the other man purchased his bottle of whiskey on the previous night. At about 10:43 a.m. this ABC agent and another ABC agent who accompanied him observed another man who entered defendant's premises and left shortly thereafter. The agents stopped this man as he was leaving and found a pint bottle of whiskey, wrapped in a brown paper bag, in the man's pocket. Later, defendant came to the side entrance and handed a package to a third man. Defendant tried to grab the package when he saw the agents but the agents were able to seize the package which contained a pint bottle of whiskey. Rule 1 of State Regulations No. 38 provides that no licensee shall sell or deliver any alcoholic beverages for off-premises consumption on Sunday.

Defendant has a prior record. Effective March 4, 1946, the local issuing authority suspended his license for ten days because of a similar violation. Ordinarily, since the offense constitutes a violation of both the ordinance and the State Regulations, I would suspend the license for twenty days for a first violation of this kind. Re Bolton, Bulletin 774, Item 5; Re Feldman, Bulletin 949, Item 4. A second similar violation would usually warrant the

doubling of the twenty-day penalty, but, because more than five years have elapsed since the prior violation, I shall suspend defendant's license in this case for a period of twenty-five days. Cf. Re Ostrowski, Bulletin 952, Item 7. Five days will be remitted for the plea entered herein leaving a new suspension of twenty days.

Accordingly, it is, on this 28th day of January 1953,

ORDERED that Plenary Retail Consumption License C-258, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Philip Black, 203-205 West Kinney Street, Newark, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2 a.m., February 3, 1953, and terminating at 2 a.m., February 23, 1953.

DOMINIC A. CAVICCHIA
Director

6. DISQUALIFICATION - APPLICATION TO LIFT - LENGTHY CRIMINAL RECORD - APPLICATION DENIED.

In the Matter of an Application)
to Remove Disqualification because)
of a Conviction, Pursuant to)
R.S. 33:1-31.2.)

CONCLUSIONS
AND ORDER

Case No. 1023.

BY THE DIRECTOR:

Petitioner requests the entry of an order removing his statutory disqualification resulting from the fact that he has been convicted of one or more crimes involving moral turpitude.

The following is a summary of petitioner's criminal record:

- 1925 - disorderly conduct - sentenced to 30 days in County Jail;
- May 8, 1926 - robbery - sentenced to reformatory, paroled December 23, 1927;
- May 19, 1928 - drunk and disorderly - fined \$15;
- May 24, 1928 - burglary - returned to reformatory, from which he was again paroled on November 21, 1928;
- November 18, 1931 - disorderly person - 30 days;
- September 23, 1932 - breaking and entry - sentenced to State Prison for two years; transferred to a reformatory and paroled March 29, 1934;
- August 27, 1934 - attempted breaking and entry - 6 months in a County Jail;
- April 18, 1935 - disorderly person - 60 days in workhouse;
- September 9, 1938 - larceny and receiving - sentenced to State Prison for term of three to four years, paroled March 28, 1941;
- On July 9, 1942, petitioner was again convicted as a disorderly person and sentenced to serve a year in a County Penitentiary.

Petitioner appealed this conviction. When the conviction was subsequently affirmed, petitioner served ten months in a County Penitentiary, being released therefrom in March 1945.

At the hearing herein, two police officers and the Director of a clinical laboratory testified that they have known petitioner for more than five years last past, and that, during that period of time, he has been law-abiding and now bears a good reputation. The Chief of Police of the municipality in which petitioner resides has advised me that there are no complaints pending against him at the present time.

Petitioner testified that since 1945 he has been employed by companies engaged in the business of installing automatic sprinklers. He stated that he is seeking to have his disqualification removed because he has been offered a position as bartender and desires to follow that employment so that he may avoid the lifting of heavy weights which is a necessary part of his present employment.

Although petitioner has not been convicted of any crime within the past five years, I am not satisfied that his association with the alcoholic beverage industry would not be contrary to the public interest.

At the hearing petitioner admitted that much of his trouble in the past was due to the fact that he had been a heavy drinker of alcoholic beverages. He stated that he is not a heavy drinker now. However, in the exercise of my discretionary power I deem it advisable to deny the relief sought herein because I believe that the denial of such relief will promote the public interest and will also be in the best interest of the petitioner herein.

Accordingly, it is, on this 21st day of January, 1953,

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

DOMINIC A. CAVICCHIA
Director

7. DISQUALIFICATION - APPLICATION TO LIFT - GOOD CONDUCT DURING PAST FIVE YEARS - APPLICATION GRANTED.

MORAL TURPITUDE - COMMERCIALIZED GAMBLING - CRIME OF OPERATING A GAMBLING ESTABLISHMENT HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.

In the Matter of an Application)
to Remove Disqualification because)
of a Conviction, Pursuant to)
R. S. 33:1-31.2.)

CONCLUSIONS
AND ORDER

Case No. 1018.
- - - - -)

BY THE DIRECTOR:

Petitioner testified at the hearing held herein that in 1932 he was fined \$50.00 for gambling (playing cards for money). His fingerprint records disclose that on February 19, 1936 petitioner pleaded guilty to a charge of operating a gambling establishment in another state and as a result thereof, on February 24, 1936, was fined \$250.00 and placed on probation for a period of one year.

It appears from the evidence herein that on December 26, 1935 petitioner was apprehended by the law-enforcement authorities and charged with operating a gambling establishment. Petitioner admitted that he and a partner, in conjunction with the operation of a gasoline station and clubroom, engaged on bookmaking on horse races on a large scale.

The crime of bookmaking may or may not involve moral turpitude, depending on the facts in each case. Re Case No. 618, Bulletin 878, Item 12. After a careful review of the evidence with reference to the bookmaking conviction, I am satisfied that petitioner operated the gambling establishment as a principal and that the crime of bookmaking to which petitioner pleaded guilty involves the element of moral turpitude. It will not be necessary at this time to determine whether petitioner's conviction for gambling (playing cards for money) involves moral turpitude.

Petitioner produced three character witnesses on his behalf -- a county employee who has known him for twelve years; a person who conducts a garage business, who has known him for eight to ten years; and an employee of a storage company who has known him for twelve to thirteen years. The witnesses testified that petitioner bears a good reputation in the community in which he lives.

The police department of the municipality wherein petitioner resides has advised this Division that there are no complaints or investigations now pending involving the petitioner.

Petitioner testified that subsequent to his conviction of bookmaking he was employed for years as a steward in a dining car by two different railroads until 1946. Thereafter and until October 1952, he worked as a carpenter. Because of an aggravation of an old injury he is unable to follow the carpenter trade. During the time he worked for the railroads as a dining car steward he handled liquor. Petitioner testified that he was unaware of the fact that he was disqualified because of the conviction for bookmaking. Ignorance of the law would not excuse him if this were a criminal or a disciplinary proceeding. However, knowledge of the law is not a necessary ingredient of the good faith essential in these rehabilitation proceedings. Cf. Case No. 594, Bulletin 767, Item 6. I shall accept petitioner's sworn testimony as true and, because of his good record since 1936, shall lift his present disqualification.

I find that petitioner has conducted himself in a law-abiding manner during the past five years, and I conclude that his association with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 8th day of January 1953,

ORDERED that petitioner's statutory disqualification because of the convictions described herein be and the same is hereby removed, in accordance with the provisions of R. S. 33:1-31.2.

DOMINIC A. CAVICCHIA
Director

8. DISQUALIFICATION - APPLICATION TO LIFT - GOOD CONDUCT DURING PAST FIVE YEARS DESPITE RECENT CONVICTIONS FOR DISORDERLY CONDUCT - APPLICATION GRANTED.

In the Matter of an Application)
to Remove Disqualification because)
of a Conviction, Pursuant to)
R.S. 33:1-31.2.)

CONCLUSIONS
AND ORDER

Case No. 1008.
- - - - -)

BY THE DIRECTOR:

In August 1932, when 19 years of age, petitioner, having pleaded guilty to a charge of grand larceny of an automobile, received a suspended sentence and was placed on probation for six months. In May 1942, petitioner, involved with others in the theft of a motor vehicle containing 270 cases of rum, pleaded non vult to a charge of grand larceny and was sentenced to a term of two to three years in State Prison, operation of such sentence being suspended, however, and petitioner being released on probation for three years. As a result of the same theft he was also indicted by a Federal Grand Jury on a charge of conspiracy but this indictment was nolle prossed in October 1942.

The foregoing crimes of which petitioner was convicted involve moral turpitude, and hence they disqualify him from being engaged in the alcoholic beverage industry in New Jersey. See R.S. 33:1-25, 26; Re Case No. 934, Bulletin 927, Item 4; Re Case No. 996, Bulletin 943, Item 8. He here petitions that this disqualification be removed under the provisions of R.S. 33:1-31.2. The Director has discretionary power to effect such removal upon finding that petitioner has conducted himself in a law-abiding manner during the last five years and that his association with the alcoholic beverage industry will not be contrary to the public interest.

For the last eight years petitioner has been living at the same address, in a small city in northern New Jersey, with his wife and their four children. He states that, since his conviction in 1942, he has been employed by various trucking companies as a driver or helper. His present employer, the holder of a license to transport alcoholic beverages in this state, is the same company for which he had originally been working when the theft was committed in 1942 and which rehired him during 1951. The company filed a questionnaire with this Division in 1952 covering petitioner's new employment with it (State Regulations No. 12). In such questionnaire petitioner admitted that he had a criminal record although describing it as "1942 Theft". Upon subsequent routine investigation, he was advised by this Division that his above criminal convictions disqualified him from his said employment. Petitioner has testified that he was theretofore unaware of his ineligibility.

Petitioner has produced three character witnesses who have known him for the last five years or more. One of these witnesses, a retired carpenter and builder, who lives in petitioner's immediate neighborhood, has known him for the last six years. Another, a police officer who also lives in the same neighborhood, has known petitioner for seven years. The third, an attorney since 1915, who lives in the same municipality, has known him for ten years. All have testified that his reputation in the community is good.

The Police Department of the city where petitioner lives has reported that there is no pending investigation or complaint relating

to him. Although petitioner was picked up by the police in June 1951 in connection with an alleged or suspected theft of gasoline from an automobile, he was apparently not held.

Were there no more to the case, I would have but little hesitancy in granting petitioner the relief requested. However, while petitioner's fingerprint returns do not disclose any conviction other than as recited above, petitioner volunteered the information that, in 1950, he had been adjudged guilty of disorderly conduct by the local police magistrate and had been fined \$10.00. It appears that, during the early morning hours on a day in November 1950, petitioner intervened to stop a fight at a public place. When the local police arrived, petitioner, refusing to "move along" when directed, was arrested for loitering and released on bail. An hour or so later, petitioner was eating in a diner when one of the local police officers entered and sat down next to him. Apparently in anger over the foregoing episode, petitioner called the officer "no good" and made other grumbling and derogatory remarks. When failing to stop despite the police officer's warning, he was again arrested for disorderly conduct. The local police magistrate fined him \$5.00 for each of the above incidents, or a total of \$10.00.

Although these twin convictions for disorderly conduct do not constitute conviction of a "crime" (Re Case No. 1009, Bulletin 950, Item 8), they are to be considered on the general question whether petitioner may be viewed as having successfully rehabilitated himself and as having been conducting himself in a law-abiding manner during the last five years. On this issue, it would appear, without excusing petitioner's "disorderly conduct", that they are instances of poor judgment rather than showing an unregenerate, or lawless, or immoral frame of mind. Hence, I do not believe these disorderly conduct convictions, springing out of essentially the same episode, should overcome petitioner's otherwise clear record since 1942 and the favorable testimony of his character witnesses. Cf. Re Case No. 48, Bulletin 300, Item 8; Re Case No. 789, Bulletin 862, Item 6; Re Case No. 1009, supra.

I therefore conclude, from the evidence before me, that petitioner has apparently been conducting himself in a law-abiding manner for at least the last five years and that his association with the alcoholic beverage industry in New Jersey will not be contrary to the public interest.

Accordingly, it is, on this 8th day of January, 1953,

ORDERED that petitioner's statutory disqualification because of the convictions of crimes described herein, be and the same is hereby removed in accordance with the provisions of R.S. 33:1-31.2.

DOMINIC A. CAVICCHIA
Director

9. DISCIPLINARY PROCEEDINGS - UNLABELED BEER TAP - LICENSE SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MILTON BYER)
T/A BYER'S CAFE & HOTEL)
137-139 S. Stockton Street)
Trenton 8, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-260, issued by the Board of Commissioners of the City of Trenton.)

-----)
Milton Byer, Defendant-licensee, Pro Se.
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant has pleaded non vult to a charge alleging that he allowed an unlabeled beer tap on his licensed premises, in violation of Rule 26 of State Regulations No. 20.

The file herein discloses that on December 17, 1952, during the course of a routine inspection of defendant's licensed premises, an ABC agent found a barrel of beer marked "Piel's" connected to a tap which bore no name of the brand of beer to be dispensed therefrom.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of three days (the minimum suspension imposed for a violation of this character). One day will be remitted for the plea entered herein, leaving a net suspension of two days. Re Clark & O'Toole, Bulletin 894, Item 11.

Accordingly, it is, on this 12th day of January 1953,

ORDERED that Plenary Retail Consumption License C-260, issued by the Board of Commissioners of the City of Trenton to Milton Byer, t/a Byer's Cafe & Hotel, 137-139 S. Stockton Street, Trenton, be and the same is hereby suspended for a period of two (2) days, commencing at 7 a.m. January 19, 1953, and terminating at 2 a.m. January 21, 1953.

DOMINIC A. CAVICCHIA
Director

10. AUTOMATIC SUSPENSION - SALE TO MINORS - LICENSE PREVIOUSLY SUSPENDED BY LOCAL ISSUING AUTHORITY FOR 5 DAYS - ORDER ENTERED LIFTING SUSPENSION AT EXPIRATION OF 10 DAYS FROM DATE UPON WHICH LICENSE WAS PICKED UP.

In the Matter of a Petition by)

WILMER R. AND ANNA M. LANE,)
T/A LANE'S LIQUOR STORE,)
412 South Main Street,)
Williamstown,)
Monroe Township, New Jersey,)

ON PETITION
ORDER

To Lift the Automatic Suspension)
of Plenary Retail Distribution)
License D-1, issued by the Town-)
ship Committee of the Township)
of Monroe.)

H. Emil Paarz, Jr., Esq., Attorney for Petitioners.

BY THE DIRECTOR:

It appears from a petition filed herein that on January 8, 1953, Wilmer R. Lane and Anna M. Lane pleaded guilty in the Gloucester County Court to an accusation that they had sold alcoholic beverages to minors, in violation of R.S. 33:1-77, and that, as a result of said plea, Wilmer R. Lane was fined the sum of \$100 and Anna M. Lane was also fined the sum of \$100 but her sentence was suspended. The petition, after reciting the action taken by the local issuing authority in disciplinary proceedings as hereinafter set forth, prays that the automatic suspension of the license may be lifted.

It appears from the records of the Division of Alcoholic Beverage Control that, as a result of disciplinary proceedings instituted against petitioners herein, the Township Committee of the Township of Monroe, on December 4, 1952, suspended the license held by defendants in said proceedings for a period of five days effective December 8, 1952, at 8 a.m., after defendants had pleaded guilty in said proceedings to charges alleging that they had sold alcoholic beverages to minors in violation of R.S. 33:1-77. As a result of said action of the local issuing authority, no alcoholic beverage activity was conducted on petitioners' premises between 8 a.m. December 8, 1952, and 8 a.m. December 13, 1952. The charges in the disciplinary proceedings were based upon the same sale which resulted in the institution of the criminal proceedings.

Despite the five-day penalty imposed by the local issuing authority, I shall not lift the automatic suspension at this time. The purpose of the automatic suspension is to insure that, when a licensee is convicted in a criminal court, there is swift and sure penalty against his license. In view of such purpose it has been the policy to lift such suspension when, and only when, the license has been suspended for what appears, in view of all the facts, to be a sufficiently penalizing length of time. Re Panasevitz, Bulletin 485, Item 3. This case concerns the sale of alcoholic beverages to two boys, one of whom was seventeen years of age and the other sixteen years of age. The minimum penalty imposed in similar cases has been a suspension of the license for twenty days, with a remission of five days if a plea of guilty or non vult has been entered in the proceedings. Re Gordon, Bulletin 906, Item 8. Hence, the penalty imposed by the local issuing authority is inadequate under the facts of this case.

The records of the Division of Alcoholic Beverage Control further disclose that on January 13, 1953, at 10:15 a.m., ABC agents picked up the license held by petitioners because, under the provisions of R.S. 33:1-31.1, their license was automatically suspended for the balance of its term as a result of their conviction in the criminal proceedings. Under the circumstances of this case I shall not lift the automatic suspension of petitioners' license until ten days have elapsed from the date upon which their license was picked up.

Accordingly, it is, on this 15th day of January, 1953,

ORDERED that the automatic suspension of the license held by petitioners be lifted effective at 10:15 a.m. on Friday, January 23, 1953. In the meantime the statutory suspension of the license shall remain in full force and effect.

DOMINIC A. CAVICCHIA
Director

11. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION AS TO RESIDENCE OF STOCKHOLDER HOLDING MORE THAN 10% OF STOCK - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against

C. M. FAMILY LIQUOR STORE, INC.
407-409 Washington Street
Cape May, N. J.,

Holder of Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the City of Cape May.

CONCLUSIONS AND ORDER

Samuel F. Eldredge, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it falsified its application for its current plenary retail consumption license, in violation of R.S. 33:1-25.

Defendant, in its application for license dated May 26, 1952, set forth the residence of one J. P. Richards, Jr. (listed therein as its president, director and 60% stockholder) as "407 Washington Street, Cape May, N. J." and answered "Yes" to Question No. 27(a) which asks: "Are you and all persons mentioned in this application actual and bona fide residents of the State of New Jersey at the present time?"

It appears from the file herein that J. P. Richards, Jr. presently is and has been a resident of Pennsylvania and therefore was disqualified in the instant case from holding more than ten per cent of defendant's capital stock.

The file herein discloses that the stock of defendant corporation was formerly owned by one Frank Minothy. An affidavit made by J. P. Richards, Jr. sets forth that he invested a large sum of money "for my friend William Brady, Jr. to put him in business" and

the books of the corporation indicate that in September 1951 the stock of the corporation was transferred from Minothy to Richards and Brady, or their nominees. After the charge was preferred herein, all of the capital stock formerly standing in the name of J. P. Richards, Jr., with the exception of one share, was transferred to William A. Brady, Jr. The latter is apparently a bona fide resident of New Jersey, living in Cape May. From the evidence submitted, it appears that said transfer is bona fide, so that J. P. Richards, Jr. is no longer a holder of more than one share of stock. It has been represented that Richards has accepted a note as security for his loan.

I shall consider the transfer of the capital stock of defendant corporate-licensee from J. P. Richards, Jr. to William A. Brady, Jr. as a bona fide correction.

Defendant alleges, in attempted mitigation of penalty, that the capital stock was originally issued to J. P. Richards, Jr. as security for a loan made by him when the stock of defendant corporation was purchased. Granting that to be so, it does not constitute an excuse for making untruthful statements in the application for its license. The license must be suspended for ten days. Cf. Re Keane and Prendergast, Bulletin 816, Item 1; Re Gillas, Bulletin 895, Item 7.

Accordingly, it is, on this 19th day of January 1953,

ORDERED that Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the City of Cape May to C. M. Family Liquor Store, Inc., 407-409 Washington Street, Cape May, be and the same is hereby suspended for a period of ten (10) days, commencing at 1 a.m., January 26, 1953, and terminating at 1 a.m., February 5, 1953.

DOMINIC A. CAVICCHIA
Director

12. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE
SUSPENDED FOR 10 DAYS LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

ANTHONY MATTURRI)
t/a WHITE TAVERN)
6 White Street)
West Orange, N. J.,)

Holder of Plenary Retail Consump-)
tion License C-33, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the Town of)
West Orange.)

CONCLUSIONS
AND ORDER

Maelyn S. Goldman, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold, served and delivered, and allowed, permitted and suffered the service and delivery of alcoholic beverages to minors, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that at 10:00 p.m. on Saturday, January 3, 1953, two ABC agents visited defendant's licensed premises. There were no patrons present at the bar at the time, but on two stools at the bar were coats and on the bar in front of one of the stools was a woman's handbag. Also on the bar in front of these stools were two beer glasses and a partially full 12-ounce beer bottle. A short time after the ABC agents entered the premises, a youth and a girl companion came from an adjoining room and took places on the stools upon which the coats lay. The girl poured beer from the bottle into a glass and then began to consume it. The youth ordered a glass of beer from the defendant and, upon service, commenced to consume it. At this juncture the two ABC agents made known their identity to the youth, the girl and the defendant-licensee. Questioning of the youth and the girl concerning their ages disclosed them to be nineteen and twenty years of age, respectively.

The defendant alleges, in attempted mitigation, that he inquired of the couple as to their ages and was told that they were each twenty-two years of age. It is clear, however, that defendant has not established a defense under the provisions of R.S. 33:1-77, because, admittedly, the minors did not falsely represent in writing that they were twenty-one years of age or over. Re Smith, Bulletin 890, Item 10; Re Cedar Bar of Bergen County, Inc., Bulletin 942, Item 5. The defendant is guilty as charged.

Defendant has no prior adjudicated record. In the absence of aggravating circumstances, I shall suspend the license for a period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Cf. Lippitt and Applebaum, Bulletin 923, Item 7.

Accordingly, it is, on this 16th day of January 1953,

ORDERED that Plenary Retail Consumption License C-33, issued by the Municipal Board of Alcoholic Beverage Control of the Town of West Orange to Anthony Matturri, t/a White Tavern, 6 White Street, West Orange, be and the same is hereby suspended for a period of five (5) days, commencing at 2 a.m., January 26, 1953, and terminating at 2 a.m., January 31, 1953.

DOMINIC A. CAVICCHIA
Director

13. STATE LICENSES - NEW APPLICATIONS FILED.

P. Donohue & Sons, Inc.

Route #38, E. of Mapleshade Circle, Mapleshade Township, N. J.

Application filed February 5, 1953 for Transportation License.

P. Donohue & Sons, Inc.

Route #38, E. of Mapleshade Circle, Mapleshade Township, N. J.

Application filed February 5, 1953 for Public Warehouse License.

Gordon-O'Neill Co.

626-630 Henry Street, Elizabeth, N. J.

Application filed February 5, 1953 for Warehouse Receipts License.



Dominic A. Cavicchia
Director.