

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

BULLETIN 1681

June 29, 1966

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

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1. APPELLATE DECISIONS - SHOP-RITE LIQUORS OF CLIFFSIDE PARK, INC.
v. CLIFFSIDE PARK.

Shop-Rite Liquors of Cliffside)	
Park, Inc.,)	On Appeal
Appellant,)	
v.)	CONCLUSIONS
Mayor and Council of the)	AND
Borough of Cliffside Park,)	ORDER
Respondent.)	

-----)
Joseph N. Marotta, Jr., Esq., Attorney for Appellant
Paul L. Basile, Esq., Attorney for Respondent
Samuel Moskowitz, Esq., Attorney for Objector Hudson-Bergen
County Retail Liquor Stores Association

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This is an appeal from the action of respondent whereby on November 3, 1965 it denied an application for person-to-person and place-to-place transfer of a plenary retail consumption license (with broad package privilege) from Vahan Najarian to appellant and from premises 785 Palisade Avenue to premises to be constructed in accordance with plans and specifications at the northeast corner of Edgewater Road and Anderson Avenue known as 494 Anderson Avenue, Cliffside Park.

The petition of appeal alleges that the action of respondent was erroneous and should be reversed in that it was arbitrary, capricious, unreasonable and discriminatory.

The answer filed by respondent denies the aforesaid allegations and as separate defenses sets forth the reasons for its action, namely:

- (1) "The area of the proposed location is amply accommodated and does not require any additional outlet to serve the needs of the residents of Cliffside Park."
- (2) "The area of the proposed location is one of the busiest intersections in the Borough, at which intersection is located a traffic light and the motor traffic at said intersection is extremely congested at the present time, and the locating of this liquor outlet at that point would compound the present motor congestion and create a hazardous and dangerous situation."
- (3) "There is no public need or necessity for a liquor outlet at this location."

- (4) "It is not in the best interest of the Borough of Cliffside Park to transfer its present location to the proposed location."
- (5) "There is no lack of present facilities in this area for the serving of residents of the Borough of Cliffside Park in that "area."

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15. The stenographic transcript of the hearing below was marked by consent of the parties as an exhibit herein and was supplemented by testimony of witnesses produced on behalf of the parties hereto.

The record discloses that Vahan Najarian is the present holder of the license in question which was originally transferred to him on December 4, 1964 for premises 681 Anderson Avenue. On June 1, 1965 Najarian was granted a place-to-place transfer of the license to 785 Palisade Avenue, where it is presently located.

Najarian testified he is an officer and director of appellant corporation and that he had no intention of ever operating under said license at the Palisade Avenue location. Najarian described the intersection of Edgewater Road and Anderson Avenue as a busy corner. However, he testified that there will be off-street parking facilities to provide space for between ten and twelve automobiles. He further stated that in his opinion there is a need for a liquor outlet at the proposed premises.

John E. Christ, a highway traffic engineer formerly employed by the Division of Motor Vehicles of New Jersey and presently with the Essex County Highway and Bridge Department, testified that on one day under his supervision a count of the traffic using said intersection was made and, as a result thereof, he would classify the traffic at such intersection as moderate. He suggested that a "no left turn" sign be erected prohibiting east-bound traffic on Edgewater Road from entering the parking lot of appellant because of its proximity to the traffic signal at the intersection of Edgewater Road and Anderson Avenue, and also a similar sign prohibiting cars leaving the parking lot when entering Anderson Avenue.

Mayor James Deer of Fairview, a municipality adjacent to Cliffside Park, testified that in his opinion the location of the license at the proposed site would be detrimental to the liquor outlets located in Fairview.

Thomas Damiani, Deputy Chief of Police of Fairview, testified that the corner of Edgewater Road and Anderson Avenue is a heavily-trafficked and dangerous intersection. He further stated that there is a bus terminal in Fairview five hundred feet from the intersection in question and the buses, when leaving the terminal, travel north on Anderson Avenue and make a right turn on Edgewater Road; that, when a bus reaches the intersection and remains within the north-bound lane of Anderson Avenue, in order to turn right on Edgewater Road it becomes necessary for the bus to swing out into the west-bound lane of Edgewater Road.

In order for appellant to succeed in this appeal it is necessary to present proof that respondent abused its discretion

in denying the application for the transfer. It is incumbent upon appellant, in order to meet this burden, to show that there was manifest error or some abuse of discretion on the part of respondent. Nordco, Inc. v. State, 43 N.J. Super. 277 (App.Div. 1957); Rajah Liquors v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 598 (App.Div. 1955).

It has been consistently ruled that a transfer of a liquor license is not an inherent or automatic right. The issuing authority may grant or deny the transfer in the exercise of reasonable discretion. If denied on reasonable grounds, such action will be affirmed. Gentes v. Middletown, Bulletin 1327, Item 1; Biscamp and Hess v. Teaneck, Bulletin 821, Item 8. See also Biscamp v. Twp. Council of the Twp. of Teaneck, 5 N.J. Super. 172 (App.Div. 1949) where, as in the case sub judice, the issuing authority denied a transfer of a liquor license because it was the opinion that there was no need or necessity for a liquor outlet in the particular location of the community.

The question of whether or not a license should be permitted at a particular location is within the sound discretion of the issuing authority and the Director's function on appeal is not to substitute his judgment for that of the issuing authority but rather to determine whether cause exists for its opinion and, if so, to affirm irrespective of his personal views. Larion, Inc. v. Atlantic City, Bulletin 1306, Item 1; Bertrip Liquors, Inc. v. Bloomfield, Bulletin 1334, Item 1. It is apparent by the unanimous vote of the four councilmen who attended the meeting and heard this matter that appellant failed to satisfy them that there is a need for, or that the public interest would be best served by, the transfer of the license to the proposed site. There is nothing in the record indicating that respondent's refusal to grant appellant's application was inspired by improper motives. The testimony of Najarian indicates that the distance between the present location of the license and that sought at the proposed site is greater than a mile. Thus in effect it would constitute the placing of another liquor outlet within the area in question. In Fanwood v. Rocco, 59 N.J. Super. 306 (App.Div. 1960) Judge Gaulkin stated:

"The Director may not compel a municipality to transfer licensed premises to an area in which the municipality does not want them, because there more people would be able to buy liquor more easily. Such 'convenience' may in a proper case be a reason for a municipality's granting a transfer but it is rarely, if ever, a valid basis upon which the Director may compel the municipality to do so."

Moreover, it was stated in Fanwood that: "No person is entitled to [the transfer of a license] as a matter of law" and "If the motive of the governing body is pure, its reasons, whether based on morals, economics, or aesthetics, are immaterial."

Appellant cites Common Council of Hightstown v. Hedy's Bar, 86 N.J. Super. 561 (App.Div. 1965) as a case in support of his contention that the transfer should have been approved. Although in each case a valid building permit to construct the proposed premises had been obtained and the respective buildings were under construction at the time the transfer of the license had been denied by the respective local issuing authorities, the similarity ends there. In the Hedy's Bar case the license

had already been held by Hedy's Bar and it was forced to move because of public agency had acquired and taken possession of the land whereon the licensed premises had been located. However, in the instant case appellant has never held the license in question and thus, not being a liquor licensee, could not have had any equity in the license.

I might state at this point that it is unfortunate that appellant, in anticipation of a favorable determination by the respondent on its application for transfer, has undergone expense in the erection of premises therefor. However, in a conflict between private interests and the interests of the community at large the latter must prevail. Pasquale v. Tenafly, Bulletin 1012, Item 1; Morartis v. Lower Penns Neck, Bulletin 839, Item 11.

I have carefully examined the memoranda filed in this matter and the various points emphasized by appellant and respondent. After consideration of all the evidence, including the exhibits, I conclude that appellant has failed to sustain the burden that the action of respondent was erroneous, arbitrary, capricious and unreasonable, or constituted an abuse of its discretionary power. Rule 6 of State Regulation No. 15.

It is recommended, therefore, that an order be entered affirming respondent's action and dismissing the appeal.

Conclusions and Order

Pursuant to the provisions of Rule 14 of State Regulation No. 15, exceptions to the Hearer's report and argument in support thereof were filed with me by the attorney for the appellant. Answers to the exceptions and written argument in support thereof were thereupon filed with me by the attorney for the respondent and by the attorney for objector Hudson-Bergen County Retail Liquor Stores Association.

In his exceptions the attorney for the appellant states that "the inflammatory remarks" made by Mayor Deer of Fairview at the hearing below were ignored by the Hearer in the report submitted by him in this matter. After an examination of the remarks made by Mayor Deer, I do not consider them to be inflammatory as the Mayor only voiced an opinion that, if appellant is granted a transfer of the license to the proposed site, the liquor outlets in Fairview, which is adjacent to Cliffside Park, might be adversely affected. He said that he based his opinion on the fact that private labeled brands of liquor would be sold at the appellant's establishment at prices less than those charged on fair trade items. There is nothing in the record alleged by appellant's attorney to indicate that the members of respondent Council voted to deny the transfer of the license to the proposed site "primarily because of the effect a Shop-Rite type of operation would have upon local liquor dealers."

Appellant's attorney further contends that, during the hearing, members of respondent made no mention concerning the fact that there were sufficient outlets in the area, but confined the discussion exclusively to "the effect of a Shop-Rite Store on the economy of the area with respect to existing liquor outlets, and the traffic condition in the area." Granting this to be so, it does not in itself preclude the respondent from considering other reasons thought proper for its action. It might bear repetition that "Local officials who are thoroughly familiar

with their community's characteristics and interests and are the proper representatives of its people, are undoubtedly the best equipped to pass initially on such applications" Ward v. Scott, 16 N.J. 16, 23, cited in Fanwood v. Rocco, 59 N.J. Super. 306 (App.Div. 1960), aff'd 33 N.J. 404 (Sup.Ct. 1960). In Fanwood, supra, it further states that the action of the local issuing authority may not be reversed by the Director unless he finds "the act of the board was clearly against the logic and effect of the presented facts." Hudson Bergen County Retail Liquor Stores Ass'n, Inc. v. Board of Com'rs. of City of Hoboken, 135 N.J.L. at p. 511.

The Hearer considered the fact that a permit had been issued to appellant for the erection of a building on the proposed site and had expressed regret that the appellant had begun construction of the building prior to the application for transfer of the license being approved. Moreover, it is apparent that the appellant assumed the risk and resultant expense when it gambled on favorable action by respondent on its application.

Again, the fact that in other sections of the Borough liquor outlets may be located closer to each other than in the area in question is no valid reason why the respondent must be compelled to grant the transfer herein.

Another argument advanced by appellant is that greater consideration was given to the testimony of the Deputy Police Chief of Fairview regarding traffic conditions than the weight accorded to the testimony of an expert witness on traffic problems. I do not accept this as a fact but, even if it were true, it is understandable. Deputy Chief Damiani testified that he has had actual experience at the intersection in question with the traffic problems for many years, whereas the traffic engineer based his testimony on a traffic count made by another person on Wednesday, December 8, 1965, who had spent a period of nine hours there, together with the observations he himself had made that day when he visited the intersection. The contention advanced by the appellant that the traffic control system at the intersection in question is illegal and may be a contributing factor to the traffic problem is a matter to be adjudicated in a proper tribunal and not at this Division where a transfer of a license is involved.

I have considered each of the exceptions filed by appellant and find that they do not present sufficient reasons in law or fact to reverse the recommendations of the Hearer.

After careful consideration of the entire record herein, including the transcripts of the testimony, the exhibits, the arguments of counsel, the Hearer's report, the exceptions and arguments thereto, and the answers to the arguments, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 10th day of May, 1966,

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

JOSEPH P. LORDI,
DIRECTOR

2. APPELLATE DECISIONS - CLARENCE'S MUSIC WORLD, INC. v. NEWARK.

Clarence's Music World, Inc.,)	
Appellant,)	On Appeal
v.)	
Municipal Board of Alcoholic)	CONCLUSIONS
Beverage Control of the City)	and
of Newark,)	ORDER
Respondent.)	

-----)
 Irving J. Zwillman, Esq., Attorney for Licensee
 Norman N. Schiff, Esq., by Anthony J. Iuliani, Esq., Attorney
 for Respondent

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This is an appeal from the unanimous action of respondent whereby on November 17, 1965 it suspended appellant's license for twenty days effective January 3, 1966, after finding it guilty in disciplinary proceedings of sale of alcoholic beverages to two minors and permitting the consumption thereof by said minors, in violation of Rule 1 of State Regulation No. 20. Appellant's premises are located at 47 Pennington Street, Newark.

Upon filing of the appeal an order dated December 8, 1965 was entered by the Director staying the effect of respondent's order of suspension pending the determination of said appeal. R.S. 33:1-31.

Appellant alleges in its petition of appeal that the action of respondent was erroneous in that it was against the weight of the evidence, capricious and a result of mistake in law and fact.

Respondent's answer denies the said allegations and contends that "the grounds upon which the issuing authority made its decision were based upon the factual testimony before the Board from which it, in its sound discretion, concluded that the penalty imposed substantiated such action."

The parties agreed to submit the matter herein upon the stenographic transcript of the proceedings held before respondent, pursuant to Rule 8 of State Regulation No. 15.

An examination of the transcript aforementioned discloses that an ABC agent (hereinafter Agent B) testified that he entered appellant's premises at 11:15 p.m. on June 18, 1965, and at 11:50 p.m. he observed a bartender (George Delgado) serving a drink to a girl and to a male, both of whom appeared to him to be minors; that the girl was served a glass of wine and, when questioned by the agent as to her age, stated that she was twenty years old; that the agent observed the male seated at the bar being served a bottle of beer and saw him consume some of the contents thereof.

Detective Cottle, of the Newark Police Department, testified that on June 18, 1965 he visited appellant's premises in response to a telephone call, arriving there at approximately 11:55 p.m.; that, after entering the premises, he met two ABC agents and observed two persons seated at the bar each holding a glass; that he spoke to the female, who told him that she was nineteen years of age, and that her name was Patricia; that, as a result of questioning a male, with the aid of a person who spoke Spanish, he learned that the youth (Ariel ---) was seventeen years old; that George (Delgado), the bartender, when questioned, said he recalled serving Patricia but had no recollection of serving Ariel.

Ariel ---, at the hearing before respondent Board, speaking through an interpreter, testified that he was born on June 20, 1947 and, although he was in appellant's premises on June 18, 1965 when an agent and an officer were there, he denied being served or drinking anything that evening. He stated that he was there only to deliver a personal message to a friend and was seated with his friend at the bar when the officers came into the place.

George Delgado testified that he was tending bar in appellant's premises on the evening of June 18, 1965, and that he remembered serving Patricia (who was known to him as Maria) after she showed him a paper indicating that she was twenty-two years of age. Delgado further testified that he first saw Ariel standing by the shuffleboard machine and later seated at the bar with "two fellows;" that, because he (Delgado) was actually serving someone else, he didn't have time to take Ariel's order.

Patricia --- did not appear or testify at the hearing before respondent, and the only testimony concerning her age was what the agent and police officer said she told them. Proof of age and identity should be established by one of the legally acceptable methods, namely, by the production of a birth certificate with the supporting proof that she is the person therein named, by the testimony of the minor herself, or the testimony of a member of the immediate family, preferably a parent. Cf. Stafford v. Haddon, Bulletin 877, Item 2. In the absence of competent proof as to the age of Patricia, I have no alternative except to recommend reversal of the action of respondent in so far as finding appellant guilty of sale of alcoholic beverages to Patricia. Cino v. Driscoll, 130 N.J.L. 535.

However, I am satisfied from the testimony of Agent B and Officer Cottle, called as witnesses by respondent, that they observed Ariel consuming beer served to him in the appellant's premises at the time in question. I am not impressed with the denial by Ariel, also called as a witness by respondent, that he was served beer or that of Delgado (the bartender) that he had no time to take Ariel's order. In Schreiber v. Public Service Railway Company, 89 N.J.L. 185 (E. & A. 1916), Chancellor Walker, speaking for the court, stated that a party is not precluded from proving the truth of any particular fact by competent testimony in direct contradiction of that to which any of the witnesses called by said party may have testified. See also Buchanan v. Buchanan, 73 N.J. Eq. 544.

In view of the insufficient evidence adduced concerning the age of Patricia, it is recommended that the respondent's finding of guilt concerning sale to and consumption of alcoholic beverages by her be reversed.

However, it is recommended that the action of respondent with reference to its finding of guilt of sale and service to Aerial, a seventeen-year-old minor, be sustained.

In view of my recommendations to reverse the action of the respondent on the allegation in the charge relative to the sale and service of alcoholic beverages to Patricia and affirming its action as to the sale and service of alcoholic beverages to Aerial, I recommend that the matter be remanded to respondent for reconsideration and reimposition of the suspension to be imposed herein, considering the fact that there was proof of sale to only one minor rather than two. Cf. Gonzales and Borros v. Elizabeth, Bulletin 1344, Item 3.

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 facts and circumstances herein, I concur in the Hearer's findings and conclusions and adopt his recommendations.

Accordingly, it is, on this 11th day of May 1966,

ORDERED that the action of the respondent in finding appellant guilty as to the portion of the charge alleging sale of alcoholic beverages to and permitting the consumption thereof by Patricia on its licensed premises be and the same is hereby reversed; and it is further

ORDERED that the action of the respondent in finding appellant guilty as to the portion of the charge alleging sale of alcoholic beverages to and permitting consumption thereof by Aerial on its licensed premises be and the same is hereby affirmed; and it is further

ORDERED that the matter be remanded to the respondent for reconsideration and reimposition of penalty in accordance with the decision herein.

JOSEPH P. IORDI,
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE TO NON-MEMBER - SALE DURING PROHIBITED HOURS - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Corinthian Square Club
30 MacLean Street
Princeton, N.J.

CONCLUSIONS
AND
ORDER

Holder of Club License CB-4, issued
by the Mayor and Council of the
Borough of Princeton.

Charles R. Sperling, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on March 17 and April 3, 1966, it sold drinks of alcoholic beverages to a non-member, in violation of Rule 8 of State Regulation No. 7, (2) on Sunday, April 3, 1966, it sold alcoholic beverages after midnight, in violation of local regulation, and (3) on April 3, 1966, it hindered investigation (by refusal to admit ABC agents to the licensed premises and otherwise), in violation of R.S. 33:1-35.

Absent prior record, the license will be suspended on the first charge for fifteen days (Re Hasbrouck Heights Post #4591, Bulletin 1639, Item 6), on the second charge for fifteen days (Re Pecoraro and Marchitto, Bulletin 1656, Item 7), and on the third charge for ten days (Re Boonton Elks Club, Inc., Bulletin 1582, Item 4), or a total of forty days, with remission of five days for the plea entered, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 17th day of May, 1966,

ORDERED that Club License CB-4, issued by the Mayor and Council of the Borough of Princeton to Corinthian Square Club for premises 30 MacLean Street, Princeton, be and the same is hereby suspended for thirty-five (35) days, commencing at 12:01 a.m. Tuesday, May 24, 1966, and terminating at 12:01 a.m. Tuesday, June 28, 1966.

JOSEPH P. LORDI,
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA - DEFERRED EFFECTIVE DATE OF SUSPENSION.

In the Matter of Disciplinary
Proceedings against

DiDonato's Bowling Center, A Corporation
t/a DiDonato's Bowling Center
1151 White Horse Pike
Hammonton, New Jersey

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption
License C-15, issued by the Town Council
of the Town of Hammonton

Curcio, Donio & DeMarco, Esqs., By Samuel A. Curcio, Esq.,
Attorneys for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on February 6, 1966, it sold drinks of alcoholic beverages after 2:00 a.m. during hours prohibited by municipal regulation, and (2) in its current application for license, failed to disclose its record of prior license suspension, in violation of R.S. 33:1-25.

Licensee has a record of suspension of license by the municipal issuing authority for five days effective August 16, 1963, for sale during prohibited hours, non-disclosure of which being the subject of the second charge.

The prior record of suspension of license for similar violation within the past five years considered, the license will be suspended on the first charge for thirty days (Re Turner, Condon and Brophy, Bulletin 1650, Item 3) and on the second charge for ten days (Re The Garden House, Inc., Bulletin 1665, Item 7), or a total of forty days, with remission of five days for the plea entered, leaving a net suspension of thirty-five days.

Recent report of investigation discloses that on May 8 the licensed premises was destroyed by fire, as a result of which the licensed business is not presently being conducted. Thus, no effective penalty can be imposed at this time. Hence, the effective dates for the suspension of license will be fixed by the entry of a further order herein after the operation of the licensed business has been resumed.

Accordingly, it is, on this 17th day of May, 1966,

ORDERED that Plenary Retail Consumption License C-15, issued by the Town Council of the Town of Hammonton to DiDonato's Bowling Center, A Corporation, t/a DiDonato's Bowling Center, for premises 1151 White Horse Pike, Hammonton, or any renewal thereof, be and the same is hereby suspended for thirty-five (35) days, the effective dates of such suspension to be fixed by further order as aforesaid.

JOSEPH P. LORDI,
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN LICENSE APPLICATION -
UNDISCLOSED INTEREST OF NON-RESIDENT - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary)
Proceedings against)

Hy-Lite Tavern)
t/a Hy-Lite Tavern)
400-02 Mechanic Street)
Camden, N. J.,)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption)
License C-130, issued by the)
Municipal Board of Alcoholic Beverage)
Control of the City of Camden.)
-----)

David Novack, Esq., Attorney for Licensee
Morton B. Zemel, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge as follows:

"In your application filed June 9, 1965 with the Municipal Board of Alcoholic Beverage Control of the City of Camden upon which you obtained your plenary retail consumption license and wherein you listed your stockholders in answer to Question No. 22 as Irwin Taylor (80 shares or 80%), Benjamin Letofsky (10 shares or 10%) and Frances Letofsky (10 shares or 10%), you falsely stated 'No' in answer to Question No. 24, which asks: 'Has any stockholder of the applicant corporation any beneficial interest, directly or indirectly, in the stock of any other stockholder of the applicant corporation?', whereas in truth and fact Benjamin Letofsky had such an interest in that he was the real and beneficial owner of 100% of your stock; said false statement being in violation of R.S. 33:1-25."

The facts are sufficiently set forth in the quoted charge when there is added the fact that Benjamin Letofsky, mentioned in the charge, was a non-resident of New Jersey, viz., a resident of Pennsylvania.

It now appears that the unlawful situation has been corrected by Letofsky's having become a resident of New Jersey and the corporate stock having been redistributed to disclose the true extent of his interest in the licensee corporation.

Absent prior record, and considering the confessional plea entered, the license will be suspended for thirty days. Re Elvee Corporation, Bulletin 1651, Item 5.

Accordingly, it is, on this 17th day of May 1966,

ORDERED that Plenary Retail Consumption License C-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Hy-Lite Tavern, Inc., t/a Hy-Lite Tavern, for premises 400-02 Mechanic Street, Camden, be and the same is hereby suspended for thirty (30) days, commencing at 2 a.m. Tuesday, May 24, 1966, and terminating at 2 a.m. Thursday, June 23, 1966.

JOSEPH P. LORDI,
DIRECTOR

5. DISQUALIFICATION REMOVAL PROCEEDINGS - FRAUDULENTLY OBTAINING
NARCOTIC DRUGS - ORDER REMOVING DISQUALIFICATION.

In the Matter of an Application) to Remove Disqualification be-) cause of a Conviction, Pursuant) to R.S. 33:1-31.2.)	CONCLUSIONS and ORDER
--	-----------------------------

Case No. 1997
-----)

Hiering, Grasso & Gelzer, Esqs., by Thomas F. Kelaher, Esq.,
Attorneys for Petitioner

BY THE DIRECTOR:

Petitioner's criminal record discloses that on June 18, 1954 he was convicted in the Ocean County Court on five charges of fraudently obtaining narcotic drugs (dilaudid) in violation of R.S. 24:18-39. It further appears that in 1950 petitioner was convicted in another state for possession of narcotics (herein), received a suspended sentence and placed on probation for six months. In 1953 he was convicted in a local magistrate's court under the Disorderly Persons Act (unlawful use of narcotics and failure to register as an offender of the narcotics law) and was sentenced to serve six months on each violation (suspended).

Since the crime of which petitioner was convicted in 1954 involves the element of moral turpitude, he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26. In view of this it is unnecessary to determine whether or not petitioner's other conviction in 1950 involves that element.

Petitioner's convictions in the magistrate's court are not convictions of crime.

At the hearing held herein, petitioner (39 years old) testified that he is married and living with his wife and four minor children; that for the past nine years he has resided in two neighboring municipalities and that for the past six years he has been the owner and operator of a laundramat.

Petitioner further testified that for about six years prior to 1954 he had been a user of narcotics; that he is now entirely cured of the habit and that he has not used any narcotics for the past twelve years.

Petitioner further testified that he is asking for the removal of his disqualification to be free to engage in the alcoholic beverage industry in this State and that, ever since his conviction in 1954, he has not been convicted of any crime, or arrested.

The Police Department of the municipality wherein the petitioner resides reports that there are no complaints or investigations presently pending against petitioner.

Petitioner produced three character witnesses (the owner of a dairy business, who is also the Mayor of the municipality wherein petitioner resides, a local police officer and the owner of a construction business) who testified that they have known petitioner for more than five years last past and that, in their opinion, he is now an honest, law-abiding person with a good reputation.

Petitioner has submitted a medical certificate indicating that he has recently been examined by a physician. The doctor reports that from his physical and psychiatric examination of the petitioner, that petitioner is certainly free from any narcotics habit that he had many years ago and feels that petitioner is and will continue to function normally.

Considering all of the aforesaid facts and circumstances, I am satisfied that petitioner has conducted himself in a law-abiding manner for five years last past, and that his association with the alcoholic beverage industry in this State will not be contrary to the public interest.

Accordingly, it is, on this 13th day of May, 1966,

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.

JOSEPH P. LORDI,
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - GAMBLING (WAGERING) - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Middletown Lanes, Inc.)
t/a Middletown Lanes, Inc.)
State Highway #35)
Middletown, N. J.)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption)
License C-17, issued by the Township)
Committee of the Township of)
Middletown.)
-----)

Francis X Moore, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 28, 1965 it permitted the playing of bowling games for money stakes, in violation of Rule 7 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Cf. Re Kriss, Bulletin 1650, Item 13; Re S. Amster, Inc., Bulletin 1657, Item 4.

Accordingly, it is, on this 16th day of May 1966,

ORDERED that Plenary Retail Consumption License C-17, issued by the Township Committee of the Township of Middletown to Middletown Lanes, Inc., t/a Middletown Lanes, Inc., for premises State Highway #35, Middletown Township, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, May 23, 1966, and terminating at 2 a.m. Thursday, June 2, 1966.

JOSEPH P. LORDI,
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - HINDERING INVESTIGATION
- LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Thomas M. Farrelly)
t/a P. J. Farrelly)
91-93 Fleming Avenue)
Newark, N. J.,)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption)
License C-11, issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Newark.)
-----)

Licensee, Pro se
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on March 5, 1966, he (1) sold drinks of beer to a minor, age 17, in violation of Rule 1 of State Regulation No. 20, and (2) hindered investigation (by destruction of evidence), in violation of R.S. 33:1-35.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective January 28, 1952, for fifteen days effective July 21, 1958, and for fifty-five days effective March 21, 1960, all for sale during prohibited hours.

The prior record of suspensions of license for dissimilar violation occurring more than five years ago disregarded, the license will be suspended on the first charge for twenty days (Re Samjo Corporation, Bulletin 1650, Item 1) and on the second charge for ten days (Re Tranchita, Bulletin 1613, Item 6), or a total of thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 9th day of May, 1966,

ORDERED that Plenary Retail Consumption License C-11, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Thomas M. Farrelly, t/a P. J. Farrelly, for premises 91-93 Fleming Avenue, Newark, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, May 16, 1966, and terminating at 2 a.m. Friday, June 10, 1966.

JOSEPH P. LORDI,
DIRECTOR

9. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto.Susp. #282)	
In the Matter of a Petition to Lift)	
the automatic suspension of Plenary)	
Retail Consumption License C-278,)	
Issued by the Board of Alcoholic)	On Petition
Beverage Control for the City of)	
Paterson to)	O R D E R
James A. Spina)	
t/a Town Tavern)	
130 Van Houten Street)	
Paterson, N. J.)	

BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division that on April 20, 1966, the licensee-petitioner was fined \$50 and \$5 costs in the Paterson Municipal Court after being found guilty of a charge of sale of alcoholic beverages to minors on April 8, 1966, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of petitioner's license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that in disciplinary proceedings conducted by the municipal issuing authority, any renewal license to be issued was suspended for fifteen days effective midnight June 30, 1966, and terminating at midnight July 15, 1966, on a charge alleging sale of alcoholic beverages to the same minor, which sale was the subject of the previous criminal conviction. Hence, I shall lift the automatic suspension in anticipation of the service of the municipal suspension. Re Pavonia House, Inc., Bulletin 1671, Item 10.

Accordingly, it is, on this 18th day of May, 1966,

ORDERED that the statutory automatic suspension of said license C-278 be and the same is hereby lifted, effective immediately.

JOSEPH P. LORDI,
DIRECTOR

1). DISCIPLINARY PROCEEDINGS - GAMBLING (WAGERING) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

William Miskiw & Anna Miskiw
t/a 2420 Bar
2420 Grier Ave.
Linden, New Jersey

CONCLUSIONS
and
ORDER

Holders of Plenary Retail Consumption License C-43, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden.

Licensees, by William Miskiw, Prose
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on April 22, 1966 they permitted gambling (wagering on pool games) on the licensed premises, in violation of Rule 7 of State Regulation No. 20.

Licensees have a previous record of suspension of license by the municipal issuing authority for fifteen days effective May 10, 1963, for sale to minors.

The license will be suspended for fifteen days (Re S. Amster, Inc., Bulletin 1657, Item 4), to which will be added five days by reason of the record of suspension of license for dissimilar violation occurring within the past five years (Re Kulnis, Bulletin 1672, Item 8), or a total of twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days.

Accordingly, it is, on this 18th day of May, 1966,

ORDERED that Plenary Retail Consumption License C-43, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden to William Miskiw & Anna Miskiw, t/a 2420 Bar, for premises 2420 Grier Avenue, Linden, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Wednesday, May 25, 1966, and terminating at 2 a.m. Thursday, June 9, 1966.

JOSEPH P. LORDI,
DIRECTOR

11. STATE LICENSES - NEW APPLICATIONS FILED

Scottish & Newcastle Importers Co., Inc. 350 Fifth Ave. New York, N.Y.
Application filed June 24, 1966 for Plenary Wholesale License.

Gillhaus Beverage Co., Inc. North Side of Meta Lane, Lodi, N. J.

Application filed June 27, 1966 for person-to-person and place-to-place transfer of State Beverage Distributor's License SBD-75 from Fred Greenwood Inc., 573-579 East 19th St. Paterson, N. J.

The W. H. Cawley Company, Readington Rd. 1/2 Mile S. of Rt. 22, Branchburg Twp. N. J.

Application filed June 28, 1966 for place-to-place transfer of State Beverage Distributor's License SBD-2 from 24 S. Bridge St. Somerville,

Joseph P. Lordi
Director

New Jersey State Library