26 Rose Avenue,
Madison,
Morris County, New Jersey.

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

BULLETIN 1017 JUNE 2, 1954.

TABLE OF CONTENTS

ITEM

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

BULLETIN 1017 JUNE 2, 1954.

1. APPELLATE DECISIONS - PALMER v. ATLANTIC CITY.

VIOLA PALMER, trading as PALMER'S PARK CORNER BAR,
Appellant,
-vs-
BOARD OF COMMISSIONERS OF THE CITY OF ATLANTIC CITY,
Respondent.

ON APPEAL
CONCLUSIONS AND ORDER

Emerson Richards, Esq., Attorney for Appellant.
Murray Fredericks, Esq., by Daniel J. Dowling, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from respondent's action, on February 18, 1954, whereby it denied, without stating any reason, appellant's application for transfer of her plenary retail consumption license from 3320 Atlantic Avenue to 3426 Atlantic Avenue.

In her petition of appeal appellant contends that respondent's denial of the application for transfer was erroneous because (1) such transfer is permitted under the ordinance; (2) the premises sought to be licensed are located in a business district surrounded largely by boarding and rooming houses; (3) her patrons, for the most part, come from the neighborhood and consequently the licensed premises would serve the public interest and convenience, and (4) there is no other location available at this time to appellant and the denial of the transfer will result in loss of her entire investment.

Respondent, in its answer, while admitting most of the factual allegations contained in the petition of appeal asserts that the area on the opposite side of Atlantic Avenue, between Albany and Boston Avenues is a City Park; that, for that reason, the transfer would be detrimental to the area involved and that the denial of the proposed transfer was in the public interest. Respondent also set forth that a petition containing twenty-three signatures opposing the transfer had been received by respondent on February 2, 1954.

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

The following facts appear to be undisputed. Appellant has held her plenary retail consumption license for premises 3320 Atlantic Avenue, which is on the northeast corner of Atlantic Avenue and Boston Avenue, since May 1953. The same premises have been licensed continuously since 1938. When appellant obtained the license by transfer in May 1953, she also acquired the existing lease for the premises which had less than six months to run. (Appellant testified that the lease was to have been renewed in September.) The lease was not renewed and, some time before the end of the year 1953, the owner of the property notified appellant that the lease would not be renewed and that she would have to vacate the premises. Appellant then sought other premises and, on January 11, 1954, filed with respondent her application for transfer of her license to 3426 Atlantic Avenue which is on the same (southeasterly) side of Atlantic Avenue as her former premises and is distant therefrom between 200 and 300 feet in a general southwesterly

direction. The proposed new premises at 3426 Atlantic Avenue is opposite the easterly end of a large triangular area bounded on the north by Chelsea Parkway and Ventnor Avenue, on the southwest by Albany Avenue and on the southeast by Atlantic Avenue. Chelsea Parkway, which branches off from Ventnor Avenue at Albany Avenue, the southwesterly end of the Park area, and is one of the main arteries between Atlantic City and the mainland, joins Atlantic Avenue at Boston Avenue. Vehicular traffic moving in a general northeasterly direction on Chelsea Parkway is diverted to Atlantic Avenue at Providence Avenue (one block southwesterly below Boston Avenue) by means of a landscaped safety traffic island. Traffic moving in a general southwesterly direction on Atlantic Avenue is diverted in a general westerly direction to Chelsea Parkway at Boston Avenue by means of the same safety island and such traffic desiring to resume travel in a general southwesterly direction on Atlantic avenue may do so by making first a left and then a right turn at Providence Avenue. Thus, except for streetcar traffic in both directions, traffic is one-way (northeasterly) on Atlantic Avenue between Providence Avenue and Boston Avenue.

The general neighborhood was formerly residential consisting principally of single dwellings, but most of these have now been converted so that either rooms or apartments may be rented out, principally during the summer season. Some of the owners reside in their respective properties the year-round. Atlantic Avenue, in this area, is zoned for business and almost all of the buildings on the southeasterly side of Atlantic Avenue for a number of blocks are commercial buildings. The following plenary retail consumption licensed premises are located in this general area: Nicholson's Bar, 3300 Atlantic Avenue at the corner of Sovereign Avenue (the other end of the block from appellant's former premises at 3320 Atlantic Avenue); The Dutch Kitchen, 3604-08 Atlantic Avenue, between Hartford Avenue and Albany Avenue (two blocks south of the proposed new premises); The Knife & Fork Inn at the corner of Albany, Pacific and Atlantic Avenues (a half block below The Dutch Kitchen); Conrad's Colonial, 3710 Atlantic Avenue and 101 South Roosevelt Place (an apartment building located in the block immediately below The Knife & Fork Inn). In addition there are two other licensed premises on Pacific Avenue, namely, Bogatin's Cafe and The Neptune Inn, both of which are near The Knife & Fork Inn. The Dutch Kitchen and The Knife & Fork Inn face the Park near its southwesterly end and Conrad's Colonial is in the next block across from the high school building. The license for The Knife & Fork Inn was issued for its present location, effective June 17, 1948; the license for The Dutch Kitchen was issued for its present premises October 13, 1949 and the license for Conrad's Colonial was issued for its present location, effective February 26, 1953.

The building at 3426 Atlantic Avenue sought to be licensed consists of a high-ceiling, one-story building with a small brick extension of lower ceiling in the rear. The smaller rear section contains two lavatories and an oil heating plant. Immediately adjacent to 3426 Atlantic Avenue on the southwest is a residential building and the two are separated by a four-foot alleyway which is the only means of access to a building in the rear of 3426 occupied by two of the objectors (Mr. Julian and his sister). The rear of the proposed premises is in close proximity to the rear of other premises which front on South Boston Avenue and South Providence Avenue. Most of these premises, or portions thereof, are rented out during the summer months.

Appellant and her husband testified in her behalf. Their testimony may be summarized as follows: Mr. Palmer manages his wife's licensed premises. They have conducted a "neighborhood" business at 3320 Atlantic Avenue where they served food and where they provided music by means of a juke box, solovox and, on weekends, piano. They have never had any trouble of any kind with the authorities or any complaints made against them at the former premises.

Upon being notified that they would be required to vacate the premises at 3320 Atlantic Avenue they "looked everywhere" but could find no other premises, except 3426 Atlantic Avenue, which would not be either too close to a church, a school or another licensed premises. (An ordinance prohibits place-to-place transfers to premises within 300 feet of other similar licensed premises, except under certain "hardship" conditions). They propose to conduct the licensed business at the new location in much the same manner as at the old location.

Mr. Murphy, Inspector of alcoholic beverage licenses for the City of Atlantic City was called as a witness by appellant. He also testified with respect to the various licensed premises in the area and characterized The Knife & Fork Inn, Neptune Inn and Conrad's Colonial as "luxury restaurants" as distinguished from "neighborhood bars".

On behalf of respondent, the only member of the Board who appeared to testify was Mr. O'Donnell, Director of Revenue and Finance, who has been a member of respondent since July 1952. He testified that he had attended the hearing on February 4, 1954 and the Commission meeting on February 18, 1954, and had voted to deny the application. He testified that the following matters were considered by the Board in arriving at its decision in this matter:

(1) The objections which had been received by respondent;

(2) the traffic situation in the immediate vicinity of the proposed premises;

(3) the neighborhood (Chelsea section); and

(4) the fact that the proposed premises are located adjacent to a Public Park.

On his direct examination he testified that it is one of the few areas where "there are not numerous saloon locations" and that, although it is only a half block removed from the former location, the area adjacent to the building at 3426 Atlantic Avenue is more residential but admitted that there were summer rentals. He further testified that the area "was at one time one of our finest sections" and that the proposed location is on what is known as the "Parkway".

With respect to the traffic situation, he stated that they had a serious problem in this area and explained the reason for the present diversion of traffic.

As to the Parkway, he testified that the area had been landscaped for a distance of four blocks between Boston Avenue and Albany Avenue; that it was a beautiful neighborhood and implied that the Board was reluctant to issue plenary retail consumption licenses in this area.

On cross-examination he testified that he had formerly lived in this area and, until very recently, had visited the licensed premises when it was located at 3320 Atlantic Avenue; that he had found nothing wrong with the manner in which the licensed premises were conducted; that the premises were well conducted; that it was "strictly a neighborhood trade" and "probably one of the nicest trades in the city".

With respect to the objections, he testified that the signers of the petition represented fifteen locations; that only two or three testified at the hearing before the Board and that, although many other people were present at the hearing, he does not know how many were in favor of granting the application or how many were opposed to it. He further testified that the only objectors with an Atlantic Avenue address were Mr. Julian and his sister and that, on the petition favoring the transfer signed by fifteen people, eight had Atlantic Avenue addresses. Some of these appear to be business addresses.

With respect to the traffic problem, he testified that he thought that it was worse at the proposed location than at the former location. He admitted that it was bad at the intersection of Boston Avenue and Atlantic Avenue, but testified that the traffic light helps to space the traffic at that location. He admitted, however, that the whole area is affected and that no evidence with respect to the traffic situation had been adduced at the hearing below.

With respect to the neighborhood, he testified that it was pretty much a residential neighborhood given over largely to apartment houses and boarding houses. He stated that there were some private homes toward the north but admitted that, toward the south, the area is commercial. As to the location of the premises near the Parkway, he admitted that respondent had transferred a plenary retail consumption license to a new apartment house (Conrad's Colonial, 3710 Atlantic Avenue and 101 South Roosevelt Place) located opposite the high school building which is at the lower (Albany Avenue) end of the Parkway. He testified that he believed this "transfer had been granted last summer." (It was, in fact, effective February 26, 1953.) He admitted that The Knife & Fork license and The Dutch Kitchen licenses are on Atlantic Avenue opposite the lower end of the Parkway. He further testified that, although Mr. Julian had objected to the location of The Dutch Kitchen at its present location, the license was issued but explained that only two of the present members of the Board were then in office.

Mr. Julian and his sister, in addition to describing the physical aspects of the situation, testified that they reside in the building at the rear of 3426 Atlantic Avenue and rent portions of it during the summer season to "high-class" people. They further testified that appellant's premises at 3320 Atlantic Avenue had been noisy and that they feared that their licensed business, if permitted at the new location, would be noisy; that the use of the lavatories in the rear of appellant's proposed premises would create an undesirable condition; that their rental business and Miss Julian's dressmaking business would be jeopardized by the transfer and that, if conditions became "unbearable", they would be forced to sell their property. They further testified that there was no necessity for a licensed premises at that location. Mr. Julian testified that he believed that 3320 and 3426 Atlantic Avenue were in different neighborhoods, the dividing line being Boston Avenue. On cross-examination he admitted that he had made no protests against the renewal of the license at 3320 Atlantic Avenue; that three plenary retail consumption premises already faced the Parkway; that he circulated the petition objecting to the proposed transfer and that he might have told some of the signers that he would be required to sell his property to "adverse elements" if the transfer were granted.

Three other objectors who reside at 16 South Boston Avenue, 5 South Providence Avenue and 14 South Boston Avenue also testified on behalf of respondent. Their objections were based principally on the alleged noisy conditions at 3320 Atlantic Avenue and their fears that the transfer would jeopardize their property values and their summer rental business. All three testified that they reside at their premises during the entire year and rent portions of the premises during the summer. All three denied that Mr. Julian told them that he might be required to sell his property and all expressed the opinion that there was no necessity for the license at the proposed location.

In rebuttal, appellant produced a detective who testified that he had interviewed a number of the persons who had signed the petition objecting to the transfer; that ten of them had told him that they were not opposed to the transfer but had signed the petition because other neighbors had signed and that one signer could not be found. The detective and another witness (a chauffeur for appellant's attorney) testified that the neighborhood, on the side streets, was principally devoted to rooming houses and summer rentals and both of these witnesses gave further testimony with respect to traffic conditions.

Two of appellant's former bartenders, now otherwise employed, testified that appellant had a neighborhood trade and that there was a necessity for a "neighborhood bar" in this area.

After the hearing a map was introduced, by stipulation, from which it appears that the traffic from Chelsea Parkway, which travels in a general northeasterly direction, merges with traffic on Atlantic Avenue going in the same direction at a point below (westerly) the southwest corner of Boston Avenue and Atlantic Avenue.

An examination of the copies of the municipal ordinances introduced in evidence discloses that the proposed transfer would not be in violation of the ordinance, as amended.

In appeals of this nature the burden is on the appellant to establish that the action of the issuing authority was erroneous and should be reversed. Rule 6 of State Regulations No. 15.

No one is entitled to a license to sell alcoholic beverages as a matter of right. Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946). Nor is there any inherent right to transfer such a license to other persons or premises. The issuing authority, in the exercise of its discretion, may grant or deny a transfer. If denied on reasonable ground, such action will be affirmed. Fafalak v. Bayonne, Bulletin 95, Item 5; VanSchoick v. Howell, Bulletin 120, Item 6; Craig v. Orange, Bulletin 251, Item 4; Semento v. West Milford, Bulletin 253, Item 2; Masarik et al. v. Milltown, Bulletin 283, Item 10; Biscamp & Hess v. Teaneck, Bulletin 821, Item 8; Kemo v. Trenton, Bulletin 983, Item 2.

On the other hand, where it appears that refusal of a transfer is arbitrary or unreasonable, the action of respondent in refusing the transfer will be reversed. Maliken v. Neptune City, Bulletin 915, Item 2; Shapley v. Delaware, Bulletin 294, Item 7.

At the hearing below respondent announced no reasons for its decision. While it has been repeatedly indicated that, in all fairness, a local issuing authority should state the reason for its decision such failure is not fatal. Since this is a trial de novo, appellant is being accorded her full day in court. Furthermore, the reasons were set forth in respondent's answer. However, under these circumstances and even though there is no indication of improper motivation, the reasons now assigned by respondent for its action ought to be scrutinized most carefully. O'Bertz v. Perth Amboy, Bulletin 1011, Item 1.

The only evidence with respect to respondent's reasons for denying appellant's application for transfer appears in testimony of Commissioner O'Donnell and have already been enumerated.

As to the protests, apparently respondent relied on the testimony of two or three witnesses and a petition signed by twenty-three persons. Only two of such persons (Mr. Julian and his sister) have Atlantic Avenue addresses. The remainder reside on side streets, some at a distance from the proposed new location. At the hearing on this appeal only five persons, including Mr. Julian and his sister, appeared and testified in opposition to the transfer. Of the twenty-three signatures on the petition, the validity of eleven has been seriously challenged. Furthermore, it has long been held that mere general objections of persons who reside on side residential streets are not sufficient to justify refusal of a transfer to premises which are located in a business neighborhood. Caruso et al. v. Kenilworth et al., Bulletin 714, Item 1; Kelly v. Margate City, Bulletin 472, Item 7; Brummer v. North Arlington, Bulletin 426, Item 11.

As to the traffic problem, considerable testimony and numerous exhibits were introduced to explain the system of traffic control in

this area. Commissioner O'Donnell expressed it as his opinion that the traffic hazard was worse at the proposed new location than at the former location at the corner of Boston Avenue and Atlantic Avenue. This was vigorously denied by appellant's witnesses. On the evidence before me, I cannot agree with Commissioner O'Donnell. I am strongly inclined to agree with appellant's witnesses, especially in view of the fact that vehicular traffic directly in front of the proposed new location is one-way, while it is two-way at the old location and all traffic bound toward the center of the city has already merged before reaching that point. In any event, it seems clear that the traffic problem at the new location is no worse than that at the old location.

As to the neighborhood, it is admitted that the proposed new location is in a business zone and that most of the buildings on Atlantic Avenue, in this area, are commercial buildings. While the neighborhood may once have been a "residential" area the evidence discloses that, for the most part, those who reside there the year-round rent out substantial portions of their properties during a number of months of the year. Thus the factual situation presented is not the same as that found in Biscamp v. Township of Teaneck, 5 N.J. Super. 172 (App. Div. 1949) cited on behalf of respondent. In the latter case the area was substantially residential. In this case it is not, and the proposed premises are in a district zoned for and devoted almost exclusively to business. Furthermore, with respect to the question of public necessity and convenience raised by respondent, this case involves not the issuance of a new or additional license but the place-to-place transfer of a license which has been in existence for more than fifteen years within 200 to 300 feet of the proposed new location and, from all of the exhibits and testimony before me, I am forced to the conclusion that both locations are in the same general business area. In such cases it has been held that the mere fact that other licensees also serve the same neighborhood is not a valid reason for denying a place-to-place transfer from one location in the neighborhood to another location in the same neighborhood, since no increase in concentration of licenses exists in such transfer. O'Bertz v. Perth Amboy, supra; Kupay v. Passaic, Bulletin 803, Item 9; Grower v. Hackensack, Bulletin 789, Item 1; Costa v. Verona, Bulletin 501, Item 2. Moreover, in this case, it appears from respondent's own testimony, including that of Mr. O'Donnell, that appellant has a "strictly neighborhood trade" while some of the other licensed premises in the neighborhood are either "luxury restaurants" or have more of a "transient trade".

As to the fact that the proposed location is opposite the "Park", Mr. O'Donnell indicated that respondent was reluctant to issue licenses on the "Parkway" near one of the few Parks in Atlantic City. The "park" does not seem to be of the playground type which would attract children. Thus, the objection to the location of a plenary retail consumption licensed premises in this area would appear to be from the aesthetic viewpoint. Such objection might be entitled to some weight if respondent had consistently treated this area as a "protected" area and had demonstrated a policy not to issue any licenses in that area. Cf. Malloy v. City of Cape May, Bulletin 1010, Item 4 and cases there cited. However, such is not the case. As hereinabove indicated, two such licensed premises have been permitted to locate on Atlantic Avenue opposite the "Park"; one in 1948 and the other in 1949 and, as late as February 26, 1953, another license was transferred from Pacific Avenue to 3710 Atlantic Avenue and 101 South Roosevelt Place, which is slightly below the base of the "Park" triangle at Albany Avenue and across the street from the high school which faces the "Park".

While it is true that the issuing authority's discretionary powers are very broad and that, on appeal, the burden of proof is on the appellant, the presumption in favor of the validity of the issuing authority's action is not conclusive. Re Ways and Witteborn

v. Egg Harbor et al., Bulletin 951, Item 3; Olko v. Saddle River Township et al., Bulletin 914, Item 3. The reasons assigned for its action must be reasonably supported by the evidence in order for such action to be sustained. O'Bertz v. Perth Amboy, supra.

Under all the facts and circumstances in this case I find that the reasons assigned for the denial of the transfer have not been supported by the evidence and that such denial was unreasonable. The decision below is reversed.

Accordingly, it is, on this 7th day of May, 1954,

ORDERED that the action of respondent be and the same is hereby reversed, and the respondent is directed and ordered to issue to the appellant a place-to-place transfer, pursuant to the conclusions herein.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT STORIES AND DANCE) - HOSTESSES - LOTTERY - PRIOR RECORD - LICENSE SUSPENDED FOR 80 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

THE M L C CORP.
710-714 Paterson Plank Road
Union City, N. J.,

Holder of Plenary Retail Consumption License C-49, issued by the Board of Commissioners of the City of Union City.

CONCLUSIONS AND ORDER

Thomas F. Carlin, 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 it (1) allowed, permitted and suffered lewdness and immoral activity in and upon its licensed premises in that a female entertainer performed in a lewd, indecent and immoral manner and a male entertainer recited stories and uttered words and phrases having lewd, lascivious, indecent, filthy, disgusting and suggestive import and meaning, in violation of Rule 5 of State Regulations No. 20; (2) allowed, permitted and suffered females employed on the licensed premises to accept beverages at the expense of and as gifts from customers and patrons, in violation of Rule 22 of State Regulations No. 20; and (3) allowed, permitted and suffered a lottery by means of a punchboard to be conducted in and upon the licensed premises and sold and offered for sale and possessed, had custody of and allowed, permitted and suffered participation rights in such lottery in and upon the licensed premises, in violation of Rule 6 of State Regulations No. 20.

The file discloses that three ABC agents entered defendant's licensed premises between 11:45 p.m. and midnight on Friday, October 16, 1953. One of the female entertainers known as "Vicki" was seated at one of the two bars drinking a "highball" which was paid for by her male companion. Anna Klunck, secretary of defendant-corporation, was serving

customers at the bar, aforementioned, and the agents saw her hand a punchboard to some male patrons who made their selections and returned the board to her. Two of the agents also made a selection and paid the indicated amount to Anna Klunck.

At approximately 12:30 a.m., Saturday, October 17, 1953, a master of ceremonies started the floor show by telling stories, many of which concerned a nudist camp. Almost all of the stories were what is known as "double entendre" stories and most were, at best, indecent and suggestive. No useful purpose would be served by repeating them here. Suffice it to say that they have no place on licensed premises.

The master of ceremonies introduced the other acts and one of these consisted of a "strip tease" by Vicki, during which she removed various garments until she was reduced to a net "bra" and two small opaque breast covers and a "G string" with flimsy panties. Thus attired Vicki did "bumps and grinds" and assumed positions and performed other manoeuvres which simulated sexual intercourse. Wildly applauded, she returned and again performed the body movements hereinabove described.

At the conclusion of the performance the agents identified themselves as such and obtained signed sworn statements from Anna Klunck, Vicki, the master of ceremonies and one of the other female performers whose performance was not objectionable.

In her statement, Vicki admitted that she had performed "bumps and grinds" but stated that she did not know that such manoeuvres and "other suggestive" numbers were not permitted on New Jersey licensed premises. She further admitted drinking with a male patron to whom she referred as a "friend" whom she had known for three weeks and claimed that Anna Klunck had advised her that she was not permitted to accept drinks from male customers.

In her statement, the other female entertainer (one of the chorus girls) admitted that she mixes with male patrons and drinks with them at their expense if she knows them or has been introduced to them.

In his statement, the master of ceremonies admitted that the stories which he told are known as "double entendre" stories but claimed that this was his first engagement in New Jersey and that he was unaware of the fact that such stories are not permitted on New Jersey licensed premises.

In her statement, Anna Klunck admitted that she is secretary of defendant-corporation; that she had warned Vicki after the 10:30 show that night concerning "bumps and grinds"; that Vicki had said that she would discontinue said "bumps and grinds"; that she (Anna Klunck) did not see Vicki perform in the second show; that she had warned female employees against drinking at the expense of male patrons and stated that she did not remember serving Vicki a "scotch and soda" which was paid for by her male companion. She endeavored to explain permitting the master of ceremonies to tell "double entendre" stories by saying that "they have two meanings, if you have a bad mind you get the bad part of the story". She admitted accepting money for chances on the chance board and stated that the prize was a doll. She sought to explain, verbally, that the proceeds of the chance board were to be used for charitable purposes.

As to charge 1, it has been consistently held that the type of stories recited by the master of ceremonies and the strip tease dance performed by Vicki and the accompanying "bumps and grinds" and other suggestive body movements have no place on licensed premises (Re The Bell Club, Inc., Bulletin 1006, Item 8; Re Bajewicz, Bulletin 902, Item 4). Entertainment, if permitted on licensed

premises, must be of such character as not to be inimical to public welfare and morals or the best interests of the industry (Re Primiceri, Bulletin 916, Item 3; Re Di Angelo, Bulletin 753, Item 4).

At his request, counsel for defendant appeared before me in oral argument with respect to the penalty to be imposed in this case.

Defendant has a prior record. Its license was suspended by the State Director for 30 days, effective April 28, 1952, for permitting a lewd performance similar to the one here involved (Re The M L C Corporation, Bulletin 934, Item 7). Furthermore, by letter dated December 19, 1952, the State Director warned defendant with respect to the type of dance here involved, and pointed out that repetition might result in the institution of disciplinary proceedings and that the previous record of suspension and the warning might be considered as aggravating circumstances. In view of these facts I shall suspend defendant's license for sixty days on charge 1. Under all the facts and circumstances in this case, I shall suspend defendant's license for an additional twenty days on charges 2 and 3, making a total of eighty days. Five days will be remitted for the plea entered herein, leaving a net suspension of seventy-five days.

Accordingly, it is, on this 6th day of May, 1954,

ORDERED that Plenary Retail Consumption License C-49, issued by the Board of Commissioners of the City of Union City to The M L C Corp., 710-714 Paterson Plank Road, Union City, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. May 13, 1954; and it is further

ORDERED that if any license be issued to this licensee or to any other person for the premises in question for the 1954-55 licensing year, such license shall be under suspension until 3:00 a.m. July 27, 1954.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATE OF SUSPENSION POSTPONED.

In the Matter of Disciplinary Proceedings against

FRANCIS W. ROBBINS POST NO. 194, AMERICAN LEGION
Southwest corner Sixth & Broad Streets
Florence, N. J.,

Holder of Club License CB-178, issued by the Director of the Division of Alcoholic Beverage Control.

ON PETITION
O R D E R

BY THE DIRECTOR:

An order having been entered herein on April 30, 1954, suspending defendant's license for a period of ten days, commencing at 2:00 a.m. May 10, 1954, and terminating at 2:00 a.m. May 20, 1954, and

It appearing from a request received from Richard J. Sweeney, Commander, for the postponement of the effective dates of said suspension that defendant and its Auxiliary had previously made commitments for affairs to be held on May 15 and May 19, 1954, and

It appearing to my satisfaction that numerous innocent persons would be inconvenienced by suspension of defendant's license for the period commencing May 10, 1954,

It is, on this 6th day of May, 1954,

ORDERED that the suspension of ten days heretofore imposed in this proceeding, instead of commencing at 2:00 a.m. May 10, 1954, shall, in lieu thereof, commence at 2:00 a.m. June 1, 1954, and terminate at 2:00 a.m. June 11, 1954.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATES FIXED FOR SUSPENSION PREVIOUSLY IMPOSED AFTER TERMINATION OF PROCEEDINGS TO REVIEW.

In the Matter of Disciplinary Proceedings against

FLORENCE HOLMES & ELWOOD HOLMES
T/a RIVERVIEW INN
N/W side of Moorestown-Centerton Road, Centerton
Mount Laurel Township
P.O. Masonville, N. J.,

Holders of Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Mount Laurel, which license is now held individually by

FLORENCE M. HOLMES,

for the same address.

ORDER

BY THE DIRECTOR:

On September 25, 1953, the license herein was suspended for a period of 30 days. See Bulletin 987, Item 4. Upon appeal to the Superior Court, Appellate Division, the court stayed the suspension pending the outcome of the appeal. On February 4, 1954, the suspension was affirmed. See Bulletin 1003, Item 1. On May 3, 1954, the Supreme Court dismissed the licensees' application for certification and, therefore, the suspension may now be reimposed.

Accordingly, it is, on this 7th day of May, 1954,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Mount Laurel to Florence Holmes & Elwood Holmes, t/a Riverview Inn, for premises on N/W side of Moorestown-Centerton Road, Centerton, Mount Laurel Township, and now held individually by Florence M. Holmes, for the same address, be and the same is hereby suspended for thirty (30) days, commencing at 3:00 a.m. May 17, 1954, and terminating at 3:00 a.m. June 16, 1954.

WILLIAM HOWE DAVIS
Director.

5. AMENDMENT TO RULES 6 AND 7 OF STATE REGULATIONS NO. 20 - HEREIN OF LEGALIZED BINGO AND RAFFLES AT LIQUOR LICENSED PREMISES.

TO ALL RETAIL LICENSEES AND TO MUNICIPAL CLERKS AND POLICE CHIEFS:

Heretofore, bingo and raffles being illegal games of chance throughout the state, Rules 6 and 7 of State Regulations No. 20 of this Division prohibited liquor licensees from permitting them on their licensed premises. Such Rules provide:

> "Rule 6. No licensee shall allow, permit or suffer in or upon the licensed premises any lottery to be conducted, or any ticket or participation right in any lottery to be sold or offered for sale; nor shall any licensee possess, have custody of, or allow, permit or suffer any such ticket or participation right, in or upon the licensed premises.
>
> "Rule 7. No licensee shall engage in or allow, permit or suffer any pool-selling, book-making or any playing for money at faro, roulette, rouge et noir or any unlawful game or gambling of any kind, or any device or apparatus designed for any such purpose, or any machine or device commonly known as a bagatelle or pin ball machine, in or upon the licensed premises."

The recently enacted Bingo and Raffles Licensing Laws (R. S. 5:8-24, 50), and the municipal referenda held thereunder, have legalized bingo and raffles in the great majority of municipalities in the state where such bingo or raffle is being conducted by a properly qualified organization holding a permit therefor. This has occasioned a revamping of the above quoted Rules of this Division.

In such revamping, I have taken account of the fact that the Bingo law prohibits bingo from being conducted in any room or outdoor area where alcoholic beverages are being sold or served during the progress of the games. In addition, the regulations adopted by the Legalized Games of Chance Control Commission contain a provision prohibiting bingo from being conducted "in any room or outdoor area where alcoholic beverages are sold, dispensed or consumed during the period between the commencement of the first and the conclusion of the last bingo game of the occasion". However, neither those regulations nor the Raffles law contain any similar restriction with respect to legalized raffles.

In harmony with the foregoing, and to clarify the matter with respect to the Division of Alcoholic Beverage Control, and pending further experience with the question of bingo or raffles at liquor licensed premises, I am herewith, effective immediately, amending Rules 6 and 7 of State Regulations No. 20 to read:

> "Rule 6. No licensee shall allow, permit or suffer in or upon the licensed premises any lottery to be conducted, or any ticket or participation right in any lottery to be sold or offered for sale; nor shall any licensee possess, have custody of, or allow, permit or suffer any such ticket or participation right, in or upon the licensed premises. However, this Rule shall not apply to bingo or raffles, or tickets or participation rights therein, being conducted pursuant to appropriate permit under the Bingo Licensing Law (R. S. 5:8-24) or the Raffles Licensing Law (R.S. 5:8-50); but in any such instance of bingo at licensed premises, the licensee, during the period between the commencement of the first and the conclusion of the last game, shall not sell, serve or deliver or allow, permit or suffer the sale, service, delivery or consumption of any alcoholic beverage in any room or outdoor area where the bingo or any part thereof is being conducted.

"Rule 7. No licensee shall engage in or allow, permit or suffer any pool-selling, book-making or any playing for money at faro, roulette, rouge et noir or any unlawful game or gambling of any kind, or any device or apparatus designed for any such purpose, or any machine or device commonly known as a bagatelle or pin ball machine, in or upon the licensed premises; provided, however, that bingo and raffles may be permitted in or upon the licensed premises to the same extent as is set forth in Rule 6 hereof."

As already indicated, the foregoing amendment of these Rules follows the lines of the Bingo and Raffles Licensing Laws. But should experience indicate that further restrictions are necessary with respect to the conduct of legalized bingo or raffles on liquor licensed premises, I shall, under the powers conferred upon me by the Alcoholic Beverage Law, promptly and effectively adopt whatever added restrictions may be required.

WILLIAM HOWE DAVIS
Director.

Promulgated Tuesday, May 25, 1954.
Effective Tuesday, May 25, 1954.
Filed with Secretary of State (N. J.) Tuesday, May 25, 1954.

6. PRIZES - SALE - HEREIN OF ALCOHOLIC BEVERAGES NOT BEING PERMISSIBLE AS AWARD IN ANY RAFFLE OR SIMILAR GAME, OR BY ANY LIQUOR LICENSEE UNDER ANY CIRCUMSTANCES.

May 25, 1954

Althea Bowne, Borough Clerk
Allenhurst, N. J.

Dear Madam:

Your inquiry, we take it, is whether an organization holding a raffles permit from the municipality is allowed, under the liquor laws or regulations, to include a case of champagne as one of the prizes.

The answer is No.

In the first place, awarding any alcoholic beverage as a prize in any raffle, or in any other game of chance where a fee must be paid to participate, would constitute a "sale" thereof within the meaning of the Alcoholic Beverage Law (R. S. 33:1-1w). Hence, the organization in question, if holding no appropriate liquor license or permit, would thereby be engaging in an illegal "sale" of the alcoholic beverages and would thus be committing a criminal misdemeanor under the Alcoholic Beverage Law (R. S. 33:1-2, 50).

Moreover, even if the organization holds an appropriate type of license or permit to sell alcoholic beverages, this Division has long disapproved of, and I here specially rule against, any such licensee or permittee awarding any type of alcoholic beverage as any prize under any circumstances (Bulletin 384, Item 12; R.S. 33:1-39).

In view of the foregoing, it is unnecessary here to inquire into various other technical aspects in the matter. On fundamentals, it would appear clear that no organization should seek to award alcoholic beverages as a prize. Suppose, for example, the winner is a minor, or is a person who is having difficulty with respect to drinking, or whose family is trying to keep him away from alcoholic beverages, etc. In my judgment, no bona fide organization would want to stand morally responsible for such contingencies.

Very truly yours,
WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - PRIOR RECORD OF PRESIDENT OF DEFENDANT CORPORATION - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against OLIVERI'S, A Corporation Rt. #46 & Kimig Avenue, formerly 6 Lodi, N. J., Holder of Plenary Retail Consumption License C-1, issued by the Mayor and Council of the Borough of Lodi.	CONCLUSIONS AND ORDER

Leo J. Berg, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to charges alleging that on Sunday, April 11, 1954, it (1) sold, served and delivered and allowed, permitted and suffered the sale, service, delivery and consumption of alcoholic beverages on its licensed premises during prohibited hours, and (2) failed to have its entire licensed premises closed during such hours, both in violation of a local ordinance.

An ordinance of the Borough of Lodi prohibits the sale, service, delivery and consumption of alcoholic beverages on Sunday between the hours of 5:00 a.m. and Noon, and requires that licensed premises (with certain exceptions not material here) shall be closed between said hours.

The file discloses that on Sunday, April 11, 1954, two ABC agents, visiting defendant-licensee's premises, ordered and were served several alcoholic drinks at intervals between 5:00 a.m. and 5:25 a.m. During the same period numerous patrons had their glasses replenished by four bartenders, one of whom commented "That's up to the boss", when an agent casually suggested the risk incident to after-hours sales. The agents then made known their identity. The "boss", who identified himself as Mrs. Oliveri, Secretary of defendant-licensee corporation, refused to sign a statement and referred the agents to her then absent husband, John Oliveri, President of said corporation and 50% stockholder thereof.

Defendant has no prior adjudicated record. It does appear that John Oliveri, t/a Jean's Bar & Grill, 49 Durant Avenue, Clifton, New Jersey, had his license suspended by the municipal authority for five days, effective March 27, 1950, for permitting bookmaking and gambling on his licensed premises. His license for said premises was transferred to other persons on September 23, 1952.

In the absence of a prior record, the minimum suspension for a first "hours" violation is fifteen days. Re Feola, Bulletin 988, Item 3; Re Dell'Orto, Bulletin 1005, Item 9. However, John Oliveri (whose license was previously suspended) and his wife became the owners, in 1952, of all the stock of defendant corporate licensee. Although the suspension was imposed for a dissimilar offense, it occurred within a period of five years and will be considered an aggravation of the current violation. Re Wimmer, Bulletin 828, Item 10; cf. Re Lopez, Bulletin 897, Item 5. Under all the circumstances, I shall suspend defendant's license for a period of twenty days, less five days' remission for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 7th day of May, 1954,

ORDERED that Plenary Retail Consumption License C-1, issued by the Mayor and Council of the Borough of Lodi to Oliveri's, A Corporation, for premises at Rt. #46 & Kimig Avenue, formerly 6, Lodi, be and the same is hereby suspended for fifteen (15) days, commencing at 4:00 a.m. May 13, 1954, and terminating at 4:00 a.m. May 28, 1954.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

JOSEPH KLECAN & SAMUEL P. OLDSTEIN
T/a LAKEHURST INN
4 Union Ave.
Lakehurst, N. J.,

Holders of Plenary Retail Consumption License C-5, issued by the Borough Council of the Borough of Lakehurst.

CONCLUSIONS AND ORDER

Albert Kushinsky, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that they sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to five minors and allowed, permitted and suffered the consumption of alcoholic beverages by said minors in and upon the licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file discloses that between March 22, 1954, and April 23, 1954, two ABC agents interviewed Carl --- (age 16), Gerald --- (age 16), John --- (age 18), Eugene --- (age 19), and George --- (age 20), and obtained from them signed sworn statements relating that on the night of March 20, 1954, and the early morning of March 21, 1954, they were patrons of the Lakehurst Inn, wherein they purchased and consumed several glasses of beer, served by the bartender known to them as "Joe", who made no inquiry as to their ages.

Accompanied by the agents, Carl --- on March 25, 1954, and the aforesaid other minors on April 23, 1954, went to the above licensed premises which all identified as the place where they had been served alcoholic beverages, and further identified Joseph Klecan (one of the licensees) as the person who had served them.

Defendants have a prior adjudicated record. Effective March 26, 1951, defendants' license was suspended by the State Director for ten days, less five for entry of a plea of non vult, for a similar violation. See Bulletin 903, Item 11.

Considering the number of minors involved (two of whom were only 16 years of age) and considering that the defendants have been adjudged guilty of a similar violation within the past five years, I shall suspend their license for forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 12th day of May, 1954,

ORDERED, that Plenary Retail Consumption License C-5, issued by the Borough Council of the Borough of Lakehurst to Joseph Klecan & Samuel P. Oldstein, t/a Lakehurst Inn, for premises 4 Union Avenue, Lakehurst, be and the same is hereby suspended for a period of thirty-five (35) days, commencing at 2:00 a.m. May 19, 1954, and terminating at 2:00 a.m. June 23, 1954.

WILLIAM HOWE DAVIS
Director.

9. PRACTICES UNDULY DESIGNED TO INCREASE CONSUMPTION OF ALCOHOLIC BEVERAGES - SCHEME HEREIN OF OFFERING ITEM OF GENERAL MERCHANDISE AT SPECIAL PRICE PLUS BOTTLE TOP OR NECK BAND OF BRAND OF ALCOHOLIC BEVERAGE PROHIBITED.

May 11, 1954

Schenley Industries, Inc.
350 Fifth Ave.
New York 1, N. Y.

Att: Stanley S. Casden, Attorney.

Gentlemen:

In your letter of April 27th, received on May 6th, you ask whether you may engage in the promotion described below in New Jersey.

In such promotion you plan, in your newspaper advertisements, to make a so-called premium offer that you will furnish a specified article of general merchandise at a special price to anyone forwarding to you that sum of money along with a bottle top or neck band from one of your brands of whiskey.

Such a promotion constitutes nothing more nor less than a scheme or practice which, in the words of the Alcoholic Beverage Law (R. S. 33:1-39), is "unduly designed to increase consumption of alcoholic beverages". From the viewpoint of sound liquor control in this state, it is elemental that whiskey or any other alcoholic beverage should be sold on its own basis as such, and not through any inducement of getting actual or alleged premiums of any kind in connection with the purchase.

Accordingly, I hereby specially rule that the foregoing promotion is not permissible in New Jersey.

In view of the foregoing, it is unnecessary here to inquire into the technical questions as to whether the proposed scheme would be contrary to State Regulations No. 30 which deal with "Minimum Consumer Resale Prices", or to Rule 20 of State Regulations No. 20 which prohibits furnishing of premiums or other inducements by retail licensees in connection with sale of package goods.

Very truly yours,
WILLIAM HOWE DAVIS
Director.

10. ALIENS - HEREIN OF TREATIES BETWEEN UNITED STATES AND FOREIGN COUNTRIES - LIST OF TREATY COUNTRIES.

The New Jersey Alcoholic Beverage Law provides that an alien may not hold any license of any type and may not (except in limited instances involving hotels or airports) be interested, directly or indirectly, in more than 10% of the shares of stock in any corporate retail licensee (R. S. 33:1-25). It further provides that no alien may be employed at licensed premises unless having obtained a requisite employment permit from the Division of Alcoholic Beverage Control (R. S. 33:1-26).

These statutory provisions, however, are necessarily subject to treaties which the federal government has entered with various foreign countries whereby their nationals are guaranteed the same trade privileges in the United States as our own citizens. Hence, nationals of those countries are exempt from the above restrictions against aliens. See Re Guskind, Bulletin 130, Item 5; Re McGuigan, Bulletin 228, Item 2; Re Sacks, Bulletin 942, Item 9.

For convenience, we have periodically published a list of such foreign countries. Since the date of our last list (Bulletin 1004, Item 8), we have been advised by the U. S. Department of State that a treaty of the type in question has recently been consummated with Israel. Hence, I am herewith setting forth a newly revised complete list:

Argentina	Finland	Italy
Austria	Great Britain, including nationals	Japan
Belgium	of Scotland and other British	Latvia
Bolivia	territory in Europe, but not	Liberia
Borneo	including nationals of British	Norway
China	territory not in Europe, such	Paraguay
Colombia	as Canada	Spain
Costa Rica	Greece	Switzerland
Denmark	Honduras	Thailand
El Salvador	Ireland	Turkey
Estonia	Israel	Yugoslavia

WILLIAM HOWE DAVIS
Director.

Dated: May 21, 1954.

11. STATE LICENSES - NEW APPLICATIONS FILED.

Standard Brewing Co. of Scranton
Corner Penn and Walnut St., Scranton, Pa.
Application filed May 21, 1954 for Limited Wholesale License.

Lynn Distributing Co., Inc.
6027 Crescent Blvd., Pennsauken Township, N. J.
Application filed May 25, 1954 for Limited Wholesale License for 1954-55 fiscal year.

William Howe Davis
Director.