

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

BULLETIN 1990

August 3, 1971

TABLE OF CONTENTS

ITEM

1. COURT DECISIONS - R.O.P.E., INC. FORT LEE - APPEAL DISMISSED.
2. APPELLATE DECISIONS - NIC-ANO, INC. v. PAULSBORO.
3. APPELLATE DECISIONS - STASH and ED ELIZABETH AVENUE, INC. v. ELIZABETH - SUPPLEMENTAL ORDER.
4. ACTIVITY REPORT FOR JUNE 1971.
5. DISCIPLINARY PROCEEDINGS (Sayreville) - SERVICE OF ALCOHOLIC BEVERAGES OTHER THAN ORDERED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.
6. DISCIPLINARY PROCEEDINGS (Atlantic City) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.
7. DISCIPLINARY PROCEEDINGS (Lakewood) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION #38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.
8. DISQUALIFICATION REMOVAL PROCEEDINGS - THREATENING WITH A GUN - ORDER REMOVING DISQUALIFICATION.
9. DISCIPLINARY PROCEEDINGS (East Hanover Township) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Ewing Township) - SALE TO MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.
11. STATUTORY AUTOMATIC SUSPENSION (Egg Harbor City) - ORDER STAYING SUSPENSION.
12. DISCIPLINARY PROCEEDINGS (Gloucester) - SALE TO MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

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

BULLETIN 1990

August 3, 1971

1. COURT DECISIONS - R.O.P.E., INC. v. FORT LEE - APPEAL DISMISSED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1144-70

R.O.P.E., INC.

Appellant,

vs.

MAYOR AND BOROUGH COUNCIL
OF THE BOROUGH OF FORT LEE,

Respondent.

Civil Action

ORDER
DISMISSING
APPEAL

This matter having been heard upon the application of Goodman, Stoldt & Breslin, Esq., attorneys for appellant, R.O.P.E., Inc., for dismissal of the within appeal, and it appearing from the Verified Petition of Lawrence G. Goodman, Esq., that this is an appeal from an order of the Division of Alcoholic Beverage Control affirming the action of the Respondent, Mayor and Council of the Borough of Fort Lee in denying renewal of Plenary Retail Consumption License C-20, and application by the Appellant for a temporary stay of said order having been denied; and

IT FURTHER APPEARING that the premises to which said retail consumption license was issued have been destroyed by fire on or about March 23, 1971, and after the filing of the Notice of Appeal in this matter so that the said premises may never be restored; and

IT FURTHER APPEARING that by Resolution adopted the 16th day of June, 1971, the respondent herein did amend its action aforesaid in denying renewal of plenary retail consumption license C-20, but upon certain conditions, including the dismissal of this appeal; and

IT FURTHER APPEARING that the Attorney General of New Jersey, attorney for the Division of Alcoholic Beverage Control, and Breslin and Monaghan, Esqs., Attorneys for the Mayor and Council of the Borough of Fort Lee, have each of them given their consent to the entry of this Order;

IT IS on this 9th day of July, 1971,

ORDERED that this appeal be and the same is hereby dismissed, without costs.

Mark A. Sullivan
P.J.A.D. Judge
Appellate Division, Superior
Court of New Jersey

2. APPELLATE DECISIONS - NIC-ANO, INC. v. PAULSBORO.

Nic-Ano, Inc., t/a)	
1100 Bar,)	
Appellant,)	On Appeal
v.)	CONCLUSIONS
)	and
Borough Council of the)	ORDER
Borough of Paulsboro,)	
Respondent.)	

Charles C. Cotton, Esq., Attorney for Appellant
Edward L. O'Brien, Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent Council (Council) wherein by a vote of five of its six members (one member being absent), it denied appellant's application for place-to-place transfer of its plenary retail consumption license from premises 1100 Delaware Street, to Store No. 4 in the Paulsboro Shopping Plaza, West Broad Street, Paulsboro. The proposed new premises are located in another area of the community.

In its resolution, the Council denied the transfer for the following stated reasons:

- "1. The operation of a bar in the Paulsboro Shopping Plaza is inconsistent with the proposed plan and utilization of said shopping plaza and is not desired.
- 2. The public good does not require the place to place transfer here sought.
- 3. By the construction and erection of the shopping plaza, many women and children will shop throughout the area and it is deemed not in their best interests that a bar dispensing alcoholic beverages should be in its midst.
- 4. Many citizens of the Borough have voiced objections to the transfer of a Plenary Retail Consumption License into the shopping plaza.
- 5. A bar dispensing alcoholic beverages could interfere with the orderly activities of business of said shopping plaza.
- 6. A tavern is presently established in the immediate area of the shopping plaza.
- 7. A public safety factor involving pedestrians and users of motor vehicles in said parking lot would be increased if the transfer were granted.

8. The applicant has shown no emergent need to transfer to a new location and has shown no detrimental changes in the area where the applicants place of business is presently located, from the time of purchase in December of 1969, down to the present date.

9. The common interest of the general public will not be best served by granting such transfer."

In its petition of appeal, appellant alleges generally that Council's action was erroneous and that there was no valid legal ground for the refusal to grant the transfer.

The Council, in its answer, alleges the following:

1. The Council exercised its sound discretion in the denial of the transfer from place to place sought by appellant.

2. The Council did not act in an arbitrary or unreasonable manner.

3. The Council honored widespread sentiment of the community in refusing transfer from place to place sought by appellant.

The appeal herein was heard de novo and the transcript of the hearing held by the Council on August 26, 1970 was received in evidence and additional evidence was presented pursuant to Rules 6 and 8 of State Regulation No. 15.

At the hearing below and at the instant hearing Nicola Pompeano, president and principal stockholder of the corporate appellant, testified that he was motivated in applying for the place-to-place transfer because he was located in an area of very high concentration of liquor licenses; there was insufficient parking in the area; there were complaints received from neighbors who resided to the rear of his tavern of loud, live music. Further, his proposed transfer to the shopping center located at the opposite end of the Borough would provide adequate parking; the proposed establishment is located in a sparsely built area; food would be served; he intended to cater to a transient trade; none of his competitors objected to the proposed transfer; and he would better himself economically by the move. The lease would provide that he could not remain open later than 10:00 p.m. The appellant acquired the tavern business on December 4, 1969.

Prior to the hearing below, the Council was in receipt of twenty-five letters from individuals objecting to the transfer.

At the hearing below, Violet Niesner testified that she would prefer to have all the taverns remain in their present concentrated area and objected to the transfer to the shopping center.

William C. Trumbull asserted that his principal objection to the transfer of the license was that the licensee was theretofore cited for permitting gambling.

Paul Sheets asserted that he did not object to the transfer of the license to the shopping center.

George H. Gaines, Mrs. Michael Beredani (a sister of Mrs. Niesner), Mrs. Mary Knestaut and Keith McCann expressed the same objections voiced by Mrs. Niesner.

At the hearing held on the appeal before the Division, Joseph Kubilis, owner of a mercantile establishment on Delaware Avenue and a property owner in the Borough, testified that he is in favor of the grant of the transfer because it would remove a liquor license from an area which is greatly over-serviced with liquor licenses and deteriorating, to the area which, except for the shopping center itself, is mainly undeveloped.

Daniel Angelucci, Chief of Police of the respondent Borough, testified that it would be better if all taverns were confined to one area to facilitate policing in the municipality.

It is apparent that the dispositive issue is whether the Council acted reasonably and in the best interests of the community.

In matters of this kind we are guided by the well established principle of law that a transfer of a liquor license to other premises is not an inherent or automatic right. The issuing authority may grant or deny a transfer in the exercise of reasonable discretion. If denied on reasonable grounds, such action will be affirmed. Richmon, Inc. v. Trenton, Bulletin 1560, Item 4; Zicherman v. Driscoll, 133 N.J.L. 586 (1946). As the court said in Fanwood v. Rocco, 59 N.J. Super. 306, 320 (App. Div. 1960), aff'd. 33 N.J. 404 (1960): "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."

The Legislature has entrusted to municipal issuing authorities the initial authority and charged them with the duty to approve or disapprove place-to-place transfers. The action of the Council in either approving or denying an application for such transfer 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 v. Hoboken, 135 N.J.L. 502 (E. & A. 1947).

In the recent case of Lyons Farms Tavern Inc. v. Newark, 55 N.J. 292, 303 (1970), the court stated:

"The conclusion is inescapable that if the legislative purpose is to be effectuated the Director and the courts must place much reliance upon local action. Once the municipal board has decided to grant or withhold approval of a premises-enlargement application of the type involved here, its exercise of discretion ought to be accepted on review in the absence of a clear abuse or unreasonable or arbitrary exercise of its discretion. Although the Director conducts a de novo hearing in the event of an appeal, the rule has long been established that he will not and should not substitute his judgment for that of the local board or reverse the ruling if reasonable support for it can be found in the record."

In the Lyons Farms Tavern case, the Supreme Court re-emphasized the thesis of the Fanwood case that the Director may not disregard the municipal issuing authority's determination to decline to license the operation of any taverns or package stores in a business section, particularly where there is widespread local sentiment in favor of keeping the area free of taverns and package stores.

Although I am of the opinion that the transfer of the license would serve the public interest for the reasons that one license would be removed from an area that is indisputably overserved to a location where there are no other licenses in close proximity to the proposed premises, where food would be served and which would close at 10:00 p.m., it is apparent that the Council honored the sentiment of those who voiced their opinion and based its action on the other reasons set forth in its resolution.

After considering the totality of the evidence herein, I find that the appellant has failed to sustain its burden of establishing that the action of the Council was erroneous and should be reversed. Rule 6 of State Regulation No. 15. I accordingly recommend that an order be entered affirming the action of the Council and dismissing the appeal.

Conclusions and Order

Written exceptions to the Hearer's report, with supportive argument, were filed by the attorney for appellant pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits, the Hearer's report and the exceptions to the Hearer's report which I find have either been answered in the said Hearer's report or are lacking in merit, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 17th day of June 1971,

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

Richard C. McDonough
Director

3. APPELLATE DECISIONS - STASH and ED ELIZABETH AVENUE, INC.
v. ELIZABETH - SUPPLEMENTAL ORDER.

Stash and Ed Elizabeth Avenue,)
Inc., t/a Stash and Ed,)

Appellant,)

v.)

On Appeal

SUPPLEMENTAL ORDER

City Council of the City of)
Elizabeth,)

Respondent.)

Weiner, Weiner & Glennon, Esqs., by John T. Glennon, Esq.,
Attorneys for Appellant
Edward W. McGrath, Esq., by Daniel J. O'Hara, Esq.,
Attorney for Respondent

BY THE DIRECTOR:

On September 3, 1970 an order was entered herein re-imposing a suspension of twenty-five days for sales, service and delivery of alcoholic beverages to minors and hindering investigation, said suspension to commence September 21, 1970. Stash and Ed Elizabeth Avenue, Inc. v. Elizabeth, Bulletin 1938, Item 7.

Thereafter, and prior to the effectuation of said suspension, on appeal filed the Superior Court, Appellate Division (Docket No. A-2373-69), by order dated September 10, 1970, stayed the operation of the suspension until the outcome of the appeal.

The court affirmed the Director's action on May 4, 1971. Stash and Ed Elizabeth Avenue, Inc. v. Elizabeth (App.Div. 1971), Bulletin 1976, Item 2.

Thereafter the licensee, with supporting affidavit, requested that the suspension imposed be deferred until July 1, 1971.

Having carefully considered the request and the affidavit in support thereof, and for other good cause shown, I shall grant the request.

Accordingly, it is, on this 15th day of June 1971,

ORDERED that the twenty-five-day suspension heretofore reimposed and stayed during the pendency of proceedings on appeal be reinstated against plenary retail consumption license No. C-90, as renewed for the 1971-72 license period by the City Council of the City of Elizabeth to Stash and Ed Elizabeth Avenue, Inc., t/a Stash and Ed, for premises 801-803 Elizabeth Avenue, Elizabeth, to commence at 2 a.m. Thursday, July 1, 1971 and terminate at 2 a.m. Monday, July 26, 1971.

Richard C. McDonough,
Director.

4.

ACTIVITY REPORT FOR JUNE 1971

ARRESTS:			
Total number of persons arrested	- - - - -		39
Licenses and employees	- - - - -	13	
Bootleggers	- - - - -	8	
Minors	- - - - -	18	
SEIZURES:			
Distilled alcoholic beverages - gallons	- - - - -		10.20
Wine - gallons	- - - - -		3.57
Brewed malt alcoholic beverages - gallons	- - - - -		16.74
RETAIL LICENSEES:			
Premises inspected	- - - - -		494
Premises where alcoholic beverages were gauged	- - - - -		423
Bottles gauged	- - - - -		6346
Premises where violations were found	- - - - -		133
Violations found	- - - - -		186
Application copy not available	- - - - -	35	
No disposal permit	- - - - -	18	
Form E-141-A not on premises	- - - - -	24	
Form E-141-A incomplete	- - - - -	23	
Prohibited signs and practices	- - - - -	1	
Unqualified employees	- - - - -	48	
Other violations	- - - - -	37	
STATE LICENSEES:			
Premises inspected	- - - - -		25
License applications investigated	- - - - -		23
COMPLAINTS:			
Complaints assigned for investigation	- - - - -		296
Investigations completed	- - - - -		336
Investigations pending	- - - - -		312
LABORATORY:			
Analyses made	- - - - -		154
Refills from licensed premises - bottles	- - - - -		106
Bottles from unlicensed premises	- - - - -		11
IDENTIFICATION:			
Criminal fingerprint identifications made	- - - - -		22
Persons fingerprinted for non-criminal purposes	- - - - -		678
Identification contacts made with other enforcement agencies	- - - - -		550
DISCIPLINARY PROCEEDINGS:			
Cases transmitted to municipalities	- - - - -		1
Violations involved	- - - - -		1
Sale to minors	- - - - -	1	
Cases instituted at Division	- - - - -		65 *
Violations involved	- - - - -		56
Retailer accepting gifts	- - - - -		
from wholesaler	- - - - -	27	
Sale to minors	- - - - -	12	
Possession liquor not truly labeled	- - - - -	6	
Sale to non-members by club	- - - - -	5	
Cases brought by municipalities on own initiative and reported to Division	- - - - -		11
Violations involved	- - - - -		11
Sale to minors	- - - - -	7	
Fail. to keep list of employees	- - - - -		
on premises	- - - - -	2	
Fail. to close prem. dur. proh. hrs.	- - - - -	2	
Unqualified employees	- - - - -	2	
Purchase from improper source	- - - - -	1	
Permitting immoral act. on prem.	- - - - -	1	
Permitting immoral act. on prem.	- - - - -	1	
Sale during prohibited hours	- - - - -	1	
HEARINGS HELD AT DIVISION:			
Total number of hearings held	- - - - -		42
Appeals	- - - - -	4	
Disciplinary proceedings	- - - - -	25	
Eligibility	- - - - -	9	
SEIZURES:			
Seizures	- - - - -	3	
Tax revocations	- - - - -	1	
STATE LICENSES AND PERMITS:			
Total number issued	- - - - -		4647
Licenses	- - - - -	2	
Solicitors' permits	- - - - -	2592	
Employment permits	- - - - -	740	
Disposal permits	- - - - -	79	
Social affair permits	- - - - -	543	
Miscellaneous	- - - - -	344	
Transit insignia	- - - - -	242	
Transit certificates	- - - - -	105	
OFFICE OF AMUSEMENT GAMES CONTROL:			
Licenses issued	- - - - -	53	
Premises inspected	- - - - -	388	
Enforcement files established	- - - - -	14	
State Fair Licenses issued	- - - - -	29	
Premises where violations found	- - - - -	15	
Number of violations found	- - - - -	20	

* Includes 2 cancellation proceedings - license improvidently issued for premises at which sale of foodstuffs is not primary and principal business

license improvidently issued in that licensee was disqualified by reason of conviction of crime involving moral turpitude

Dated: July 12, 1971

RICHARD C. MC DONOUGH
Director of Alcoholic Beverage Control
Commissioner of Amusement Games Control

5. DISCIPLINARY PROCEEDINGS - SERVICE OF ALCOHOLIC BEVERAGES
OTHER THAN ORDERED - PRIOR DISSIMILAR RECORD - LICENSE
SUSPENDED FOR 25 DAYS - APPLICATION FOR FINE IN LIEU OF
SUSPENSION GRANTED.

In the Matter of Disciplinary
Proceedings against

O'HARA'S BAR, INC.

t/a D'Scene

Route #9

Sayreville

PO South Amboy, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-28, issued by the Borough
Council of the Borough of Sayreville.

Weiner, Schoifet & Hendler, Esqs., by Benjamin Weiner, Esq.,
Attorneys for Licensee.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"On June 20 and July 2, 1970, you served and
allowed, permitted and suffered the service of
alcoholic beverages other than ordered; in violation
of Rule 23 of State Regulation No. 20."

The Division offered the testimony of Agents P and D.
Agent P testified that he and two other agents entered the
licensed premises on June 20, 1970 in the evening. The premises
contained five bars and a dance floor. Agent P ordered a drink
to be made from a particular brand of whiskey known as "Johnny
Walker" but observed that the bartender drew the whiskey from an
automatic spigot labeled "Dewar's." The bartender duplicated
this order shortly thereafter and with the same result. On the
evening of July 2, 1970 he returned to the licensed premises with
Agent D. On this occasion he ordered "Chivas Regal" (another
brand of whiskey) and again was served from the automatic spigot
labeled "Dewar's." The bartender proffered the drinks, repeating
"two Chivas Regal and water." Upon an immediate repetition of
the same order, with the substituted whiskey served, the agents
notified the manager (Melvin Garfinkel) of the violation. The
bottle and drinks were confiscated.

On cross examination the agent indicated that he saw no
sign limiting the brands sold.

The testimony of Agent D substantiated that of Agent P
but added that the manager, in conversation following notice
of the violation, volunteered that "he'll have to get some kind
of signs put up around the place." He added that there was
no sign posted informing patrons of any limitation of brands
sold or offered for sale.

The licensee asserted that the signs limiting the brands available to the patrons were put up "around the 12th or the 15th or the 16th of June", which dates were prior to the first visit by the agents. However, he made no mention of their existence to the agents because "I was nervous, I guess." The bill of the Ace Sign Shop, in evidence, was dated June 15, paid in August, and does not list what signs were made, if any, or what work was done for the bill.

We are dealing here with a purely disciplinary measure and its alleged infraction. Such proceedings are civil in nature and not criminal. Kravis v. Hock, 137 N.J.L. 252 (Sup.Ct. 1948). Thus the Division was required to establish this charge by a preponderance of the credible evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956).

From all of the testimony of the two agents, as well as the licensee, there can be no rational conclusion other than that the facts stated by the agent took place and that there was a violation of Rule 23 of State Regulation No. 20. This conclusion is reached regardless of the presence or absence of the limiting sign. Those signs, were they present, may merely be relevant as a mitigating circumstance in fixing the penalty. Re Kellner, Bulletin 1422, Item 5. With respect to the testimony, the general applicable principle is to the effect that no testimony need be believed but, rather, the Hearer must always credit as much or as little as he finds reliable. Torres v. Union City, Bulletin 1802, Item 1.

The testimony of the licensee that the signs were posted at the time of the agents' visit is not credible when taken in context with the comments allegedly made by the manager who volunteered that signs should be posted. The manager was not called as a witness. That the licensee did not protest at the charge when the signs were in view leads to the conclusion that no protest was made because the signs were not there, rather than the "nervousness" of the licensee. Evidence, to be believed, must not only proceed from the mouths of credible witnesses, but must be credible in itself and must be such as common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954).

I therefore recommend, after considering all the facts and circumstances herein, that the licensee be found guilty of said charge. Licensee has a prior adjudicated record. Its license was suspended by the local issuing authority for five days effective November 5, 1967 for sales to minors. Thereafter the license was suspended by the Director for twenty days effective October 12, 1968 for sale to minor. Re O'Hara's Bar, Inc., Bulletin 1821, Item 9.

It is further recommended that the license be suspended for fifteen days (Re Cilco Enterprises (A Corp.), Bulletin 1922, Item 4), to which should be added ten days by reason of the record of two suspensions of license for dissimilar violations within the past five years (cf. Re Nazario, Bulletin 1840, Item 5), or a total of twenty-five days.

Conclusions and Order

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

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations. As a result, the license would normally be suspended for twenty-five days. However the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having carefully considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$2,962 in lieu of the twenty-five days suspension.

Accordingly, it is, on this 14th day of June 1971,

ORDERED that the payment of a \$2,962 fine by the licensee is hereby accepted in lieu of such suspension.

Richard C. McDonough
Director

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LAELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA -
APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary)	
Proceedings against)	
Atlantic-Deauville, Inc.)	
t/a Sheraton Deauville)	Conclusions
Boardwalk & Morris Avenues)	and
Atlantic City, N. J.,)	Order
Holder of Plenary Retail Consumption)	
License C-42, issued by the Board of)	
Commissioners of the City of)	
Atlantic City.)	
- - - - -)	
Horn and Weinstein, Esqs., by Gerald Weinstein, Esq., Attorneys)	
for Licensee)	
Walter H. Cleaver, Esq., Appearing for Division)	

BY THE DIRECTOR:

Licensee ploads non vult to a charge alleging that on December 3, 1970 is possessed alcoholic beverages in three bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record the license would normally be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Crystal Bay Inn, Inc., Bulletin 1968, Item 3. However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$1,920 in lieu of suspension.

Accordingly, it is, on this 14th day of June 1971,

ORDERED that the payment of \$1,920 fine by the licensee is hereby accepted in lieu of a suspension of license for fifteen days.

Richard C. McDonough
Director

7. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF
STATE REGULATION #38 - LICENSE SUSPENDED FOR 15 DAYS, LESS
5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary)
Proceedings against)

Joseph Sieber & Helen Sieber)
t/a Bob Higgins Bar)
100 Second Street)
Lakewood, New Jersey)

Holder of Plenary Retail Consumption)
License C-4, issued by the Township)
Committee of the Township of Lakewood.)
-----)
Licensees, Pro se)
Edward F. Ambrose, Esq., Appearing for Division)

CONCLUSIONS
and
ORDER

BY THE DIRECTOR:

Licensees plead guilty to a charge alleging that on Tuesday, December 29, 1970, they sold one pint bottle of wine for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license would normally be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Prince Bar & Grill, Inc., Bulletin 1957, Item 4. However, the licensees have made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question I have determined to accept an offer in compromise by the licensees to pay a fine of \$400 in lieu of suspension.

Accordingly, it is, on this 14th day of June 1971,

ORDERED that the payment of \$400 fine by the licensees is hereby accepted in lieu of a suspension of license for ten days.

Richard C. McDonough
Director

8. DISQUALIFICATION REMOVAL PROCEEDINGS - THREATENING WITH A GUN - 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. 2544
-----)

George R. Summer, Esq., Appearing for Petitioner.

BY THE DIRECTOR:

Petitioner's criminal record discloses that in 1955 he was convicted of the crime of threatening with a gun in the Essex County Court and was sentenced to two years probation.

Since the crime of which petitioner was convicted involves the element of moral turpitude (Cf. Case #1698, Bulletin 1474, Item 4) he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

At the hearing held herein, petitioner (45 years old) testified that he is married and living with his wife and for the past seven years has resided at his present address, that he is a bartender on licensed premises.

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 1955, 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 (a self-employed fuel oil businessman; a security officer and an administrative staff officer) 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.

The only reservation I have in granting the relief sought herein is based on the fact that the petitioner, although disqualified, worked on licensed premises in this State. I am, however, favorably influenced by three factors, viz., (a) testimony of his character witnesses, (b) his sworn testimony that he was unaware of his ineligibility to be associated with the alcoholic beverage industry in this State and (c) his present attitude. Knowledge of the law, moreover, is not a prerequisite to removal of disqualification in these proceedings. Re Case No. 1738, Bulletin 1510, Item 7.

Considering all 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 15th day of June 1971,

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

Richard C. McDonough
Director

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Albert's Chateau (A Corporation))
t/a Albert's Chateau)
16 Eagle Rock Avenue)
East Hanover Township)
PO Hanover, N. J.,)

CONCLUSIONS
and
ORDER

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

James T. Dowd, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 18, 1970 it possessed seven bottles of alcoholic beverages bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Bryers & Meis, Inc., Bulletin 1938, Item 12.

Accordingly, it is, on this 15th day of June 1971,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of East Hanover Township to Albert's Chateau (A Corporation), t/a Albert's Chateau, for premises 16 Eagle Rock Avenue, East Hanover Township, be and the same is hereby suspended for the balance of its term, viz., midnight June 30, 1971, commencing at 2 a.m. Monday, June 21, 1971; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2 a.m. Sunday, July 11, 1971.

Richard C. McDonough,
Director.

10. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR
FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary)
Proceedings against)
)
Capitol Plaza Liquors, Inc.)
Capitol Plaza Shopping Center)
Olden & Princeton Avenues)
Ewing Township)
PO Trenton, N. J.,)
)
Holder of Plenary Retail Consumption
License C-13, issued by the Township)
Committee of the Township of Ewing.)
-----)

CONCLUSIONS
and
ORDER

Licensee, by Sydney Levine, Secretary-Treasurer, Pro se
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
January 29, 1971 it sold alcoholic beverages to a minor, age 18,
in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license would normally be
suspended for fifteen days, with remission of five days for the
plea entered. Re Top Road Tavern (a corp.), Bulletin 1941,
Item 9. However, the licensee has made application for the
imposition of a fine in lieu of suspension in accordance with
the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question,
I have determined to accept an offer in compromise by the li-
censee to pay a fine of \$980 in lieu of the suspension.

Accordingly, it is, on this 16th day of June 1971,

ORDERED that the payment of a \$980 fine by the li-
censee is hereby accepted in lieu of a suspension of license
for ten days.

Richard C. McDonough,
Director.

11. STATUTORY AUTOMATIC SUSPENSION - ORDER STAYING SUSPENSION.

Auto. Susp. #335)
Re: The Lifting of the Automatic)
Suspension of Plenary Retail)
Distribution License D-1, issued)
by the Common Council of the)
City of Egg Harbor to)

ORDER

Albert A. Roesch, Jr.)
t/a Roesch's Liquor Store)
340 Philadelphia Avenue)
Egg Harbor City, N. J.)

- - - - -)
Licensee, by Albert A. Roesch, Jr.

BY THE DIRECTOR:

It appears from the records of this Division that on May 21, 1971 the licensee, Albert A. Roesch, Jr., was fined \$200 in the Egg Harbor Municipal Court after pleading guilty to a charge of sale of alcoholic beverages to a minor on or about March 29, 1971, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of the license herein for the balance of its term. R.S. 33:1-31.1.

It further appears that disciplinary proceedings against the licensee have been instituted by the municipal issuing authority because of said sale of alcoholic beverages to a minor. Because of the pendency of this proceeding, the said automatic suspension has not been effectuated. A petition with respect to said automatic suspension may be filed with me after such disciplinary proceedings have been concluded. In fairness to the licensee, I conclude that at this time, the effect of the automatic suspension should be temporarily stayed. Re Chizmar, Bulletin 1898, Item 8.

Accordingly, it is, on this 16th day of June 1971,

ORDERED that the aforesaid automatic suspension of Plenary Retail Distribution License D-1, be and the same is hereby stayed pending the entry of a further order herein.

Richard C. McDonough
Director

12. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary)
 Proceedings against)

Anna M. Ridge)
 t/a The Dixie Cafe)
 157-159 S. Burlington Street)
 Gloucester City, N. J.,)

CONCLUSIONS
 and
 ORDER

Holder of Plenary Retail Consumption)
 License C-4, issued by the Common)
 Council of the City of Gloucester)
 City.)

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

BY THE DIRECTOR:

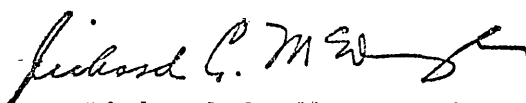
Licensee pleads non vult to a charge alleging that on January 30, 1971 she sold alcoholic beverages to a minor, age 18, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license would normally be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Top Road Tavern (a corp.), Bulletin 1941, Item 9. However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$400 in lieu of suspension.

Accordingly, it is, on this 17th day of June 1971,

ORDERED that the payment of a \$400 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.



Richard C. McDonough,
 Director.