

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

BULLETIN 914

AUGUST 8, 1951.

TABLE OF CONTENTS

ITEM

1. ACTIVITY REPORT FOR JULY 1951.
2. MINIMUM CONSUMER RESALE PRICE PAMPHLET - NOTICE OF PUBLICATION.
3. APPELLATE DECISIONS - OLKO v. SADDLE RIVER TOWNSHIP AND HAIGH.
4. DISCIPLINARY PROCEEDINGS (Dumont) - BOOKMAKING AND GAMBLING - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Jersey City) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Randolph Township) - MISLABELED BEER TAP - LICENSE SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.
7. DISQUALIFICATION - FIVE YEARS' GOOD CONDUCT SINCE CONVICTION OF CRIME INVOLVING MORAL TURPITUDE - PETITION GRANTED.
8. DISCIPLINARY PROCEEDINGS (Newark) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Mahwah) - SALE TO MINOR - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
10. INTERPRETATIONS OF RULES OF STATE REGULATIONS NO. 39 (EXTENSION OF CREDIT BY MANUFACTURERS AND WHOLESALERS TO RETAIL LICENSEES).
11. DISCIPLINARY PROCEEDINGS (Trenton) - STATE BEVERAGE DISTRIBUTOR LICENSEE - FAILURE TO FILE WITH DIRECTOR NOTICE OF DEFAULT BY RETAIL LICENSEE, IN VIOLATION OF STATE REGULATIONS NO. 39 - LICENSE SUSPENDED FOR 5 DAYS.
12. STATE LICENSES - NEW APPLICATIONS FILED.
13. DISQUALIFICATION - FIVE YEARS' GOOD CONDUCT SINCE CONVICTION OF CRIME INVOLVING MORAL TURPITUDE NOT SHOWN - PETITION DENIED.

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

BULLETIN 914

AUGUST 8, 1951.

I. ACTIVITY REPORT FOR JULY 1951

ARRESTS:		
total number of persons arrested	-----	23
Licensees and employees	----- -10	
Bootleggers	----- -13	
SEIZURES:		
Motor vehicles - boats	-----	1
- trucks	-----	1
Still - over 50 gallons	-----	2
- 50 gallons or under	-----	1
Alcohol - gallons	-----	4.00
Mash - gallons	-----	350.00
Distilled alcoholic beverages - gallons	-----	9.36
Wine - gallons	-----	10.64
Brewed malt alcoholic beverages - gallons	-----	70.71
RETAIL LICENSEES:		
Premises inspected	-----	588
Premises where alcoholic beverages were gauged	-----	709
Bottles gauged	-----	12,206
Premises where violations were found	-----	174
Violations found	-----	184
Type of violations found:		
Unqualified employees	----- -19	Improper beer taps ----- 2
Gambling devices	----- 5	Other mercantile business ----- 2
Reg. #38 sign not posted	----- 3	Disposal permit necessary ----- 2
		Other violations ----- 151
STATE LICENSEES:		
Premises inspected	-----	3
License applications investigated	-----	19
COMPLAINTS:		
Complaints assigned for investigation	-----	617
Investigations completed	-----	580
Investigations pending	-----	154
LABORATORY:		
Analyses made	-----	100
"Shake-up" cases (alcohol, water and artificial color) - bottles	-----	3
Liquor found to be not genuine as labeled - bottles	-----	2
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made	-----	14
Persons fingerprinted for non-criminal purposes	-----	382
Identification contacts made with other enforcement agencies	-----	290
Motor vehicle identifications via N. J. State Police Teletype	-----	20
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	6
Violations involved:		
Sale to minors	----- 3	
Permitting bookmaking on premises	----- 1	
Sale during prohibited hours	----- 1	
Permitting gambling (cards) on premises	----- 1	
Cases instituted at Division	-----	15
Violations involved:		
Sale to minors	----- 5	Transporting without invoice ----- 1
Permitting immoral activity on premises	----- 4	Employing unqualified person ----- 1
Mislabeling beer taps	----- 2	Storage off licensed premises ----- 1
Permitting hostesses on premises	----- 1	Unauthorized transportation ----- 1
Permitting prostitutes on premises	----- 1	Aiding & abetting unauthorized transp. ----- 1
Possessing illicit liquor	----- 1	Sale beyond scope of permit ----- 1
Permitting bookmaking on premises	----- 1	Sale beyond scope of license ----- 1
Cases brought by municipalities on own initiative and reported to Division	-----	4
Violations involved:		
Sale to minors	----- 2	
Permitting brawls on premises	----- 1	
Sale during prohibited hours	----- 1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	49
Appeals	----- 7	Seizures ----- 2
Disciplinary proceedings	----- -16	Applications for license ----- -14
Eligibility	----- -10	
PERMITS ISSUED:		
Total number of permits issued	-----	5,338
Employment	----- 1,683	Social affairs ----- 333
Solicitors	----- 2,748	Special wine ----- 91
Disposal of alcoholic beverages	----- 68	Miscellaneous ----- 415

Dated: August 1, 1951.

ERWIN B. HOCK, DIRECTOR

2. MINIMUM CONSUMER RESALE PRICE PAMPHLET - NOTICE OF PUBLICATION.

The next complete and official publication of minimum consumer resale prices pursuant to Regulations No. 30 will become effective on October 1, 1951. Prices to be listed must be filed with the office of this Division not later than 4:00 P.M. of August 20, 1951. It is extremely important to note the following:

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

NOTE OF CAUTION AND WARNING: ANY BRAND OF ALCOHOLIC BEVERAGE NOT LISTED IN THE MINIMUM CONSUMER RESALE PRICE PAMPHLET TO BECOME EFFECTIVE OCTOBER 1, 1951 MAY NOT BE SOLD TO A NEW JERSEY RETAILER BY ANY MANUFACTURER OR WHOLESALER ON AND AFTER OCTOBER 1, 1951.

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

ERWIN B. HOCK
Director.

Dated: August 3, 1951.

3. APPELLATE DECISIONS - OLKO v. SADDLE RIVER TOWNSHIP AND HAIGH.

LEO OLKO,)
 Appellant,)
 -vs-) ON APPEAL
 TOWNSHIP COMMITTEE OF THE) CONCLUSIONS AND ORDER
 TOWNSHIP OF SADDLE RIVER and)
 WALLACE G. HAIGH,)
 Respondents.)

Arthur J. Messineo, Esq., Attorney for Appellant.
 Chandless, Weller, Kramer & Frank, Esqs., by Ernest Weller, Esq.,
 Attorneys for Respondent Township Committee.
 William K. Azar, Esq., Attorney for Respondent Wallace G. Haigh.
 Carl F. Nitto, Esq., Attorney for Objectors.

BY THE DIRECTOR:

This is an appeal from respondent Committee's denial of appellant's application for transfer to him of a 1950-1951 plenary retail consumption license held by respondent Haigh and from premises at 529 Market Street to premises at 230 Route 6, Saddle River Township.

Respondent Committee's resolution of denial of the application set forth as the ground thereof that "the transfer would not be in the public interest". The "public interest" is, of course, of paramount consideration but a mere statement embodying the quoted words has, standing alone, no probative force. No member of respondent Committee testified or appeared at the hearing on this appeal.

The Petition of Appeal sets forth that respondent Committee's action was erroneous in that: (a) the transfer would be in the public interest, and (b) there is no valid reason for the Committee's denial of the transfer.

Respondent Committee's Answer to the Petition of Appeal maintains that the denial should be sustained on the following grounds:

- (a). The hearing held locally on the application "disclosed that the proposed transfer would be in direct contravention to the provisions of Revised Statutes, 33:1-26."
- (b). The denial "was a valid and proper exercise of the discretionary power vested in the governing body, nor was such decision...arbitrary or capricious as the testimony at the aforesaid (municipal) hearing disclosed false statements or misleading statements or evasions or suppression of material facts in the original application made by Respondent Wallace G. Haigh in September 1945, and in subsequent annual applications filed by said Respondent for renewals of said license to and including the application for the current year, to wit: answers given by the Respondent, Wallace G. Haigh, to Questions 30 and 32 (Form A-13)."
- (c). The denial "is justified by the testimony produced at the hearing on the written objection filed by Bertha Carlone...which testimony disclosed a lack of good faith in procuring the issuance and renewal of said license and its proposed transfer."
- (d). To approve the transfer from respondent Haigh to appellant "would, in effect, approve and condone the acts and conduct of...Haigh in respect to said license contrary to the provisions and objects of the Statute in such case made and provided."

(e). "No legal reason is necessary to support the decision of the issuing authority so long as its judgment is made in good faith and rests within the wide discretionary powers afforded by the Statute."

As to "(a)" of the Answer: Revised Statutes, 33:1-26 provides that: "Under no circumstances...shall a license, or rights thereunder, be deemed property subject to...sale...or any other transfer or disposition whatsoever, except to the extent expressly provided by this chapter." Appellant produced at the hearing herein a signed copy of the agreement of sale entered into between himself and respondent Haigh. Therein, appellant agrees "to purchase the following described business: Tavern situate at 529 Market Street...including good will, together with all fixtures and equipment" and all liquor stock in the premises. The agreement contains the provision: "In the event that the transfer of the plenary retail consumption license...cannot be effected" the money to be paid at the execution of the agreement "will be returned to the buyer and this agreement shall be null and void". Palpably the agreement of sale is not in contravention of the quoted provision of R. S. 33:1-26 -- does not contemplate or purport to contemplate a sale of the license as distinguished from the good will and tangible assets. A transfer of a liquor license is not dependent upon an agreement between the parties. Under our Alcoholic Beverage Law, requisite jurisdiction to transfer a license is founded, for purposes here pertinent, upon proper application, proper consent of the transferor, payment of the required fee, and publication of Notices of Application. (R. S. 33:1-26.) Here these statutory requirements were satisfied and were sufficient to invest respondent Committee with jurisdiction to grant the transfer irrespective of the agreement of sale and even assuming the agreement to have been invalid. (See Simon v. Paterson and Passero, Bulletin 867, Item 1.) Ground "(a)" of the Answer lacks merit.

As to "(b)" of the Answer: Bertha Barno (now Bertha Barno Carlone) held a plenary retail consumption license for the premises at 529 Market Street, such premises being owned by Nicholas Barno, from July 1, 1943 until September 28, 1945 when the license was transferred to respondent Haigh and James Leo Minier. Haigh and Minier gave a promissory note, dated September 29, 1945 and made in the amount of \$1,000.00 to the order of Bertha Barno, secured by a mortgage on the "goods and chattels". The chattel mortgage contained the following provisions:

"Upon condition, that if we the said party of the first part, shall and do well and truly pay unto the said party of the second part, her executors, administrators and assigns, the sum of One Thousand (\$1,000.) Dollars by the payment of a promissory note bearing even date herewith in that amount, payable on demand, the payment of which note is conditioned upon the fulfilment by the parties of the first part of the conditions under which they are to re-transfer the liquor license (Plenary Retail Consumption) to the party of the second part, and the further condition that the parties of the first part will do and perform all things on their part necessary for the renewal of the license from year to year and to avoid the revocation of said license at any time during the period in which said license or the renewal thereof is issued to them, all in accordance with an agreement entered into between the parties hereto on September 18th, 1945.

"It being understood and agreed that this mortgage is being given as security for the faithful performance on the part of the parties of the first part, of the conditions aforesaid instead of depositing the sum of \$1,000.. in cash, and in the event the parties of the first part fail to perform any one or all of the conditions aforesaid, including the terms set forth in the agreement of September 18th, 1945, then, the sum of \$1,000. aforesaid shall immediately become due and payable and if they perform all the conditions aforesaid, then these presents shall be void."

Questions 30 and 32 of the prescribed form of application for retail license and retail license transfer (Form A-13) read:

"30. Has any individual, partnership, corporation or association, other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?

* * *

"32. Does any individual, partnership, corporation or association hold any chattel mortgage or conditional bill of sale on any furniture, fixtures, goods or equipment used or to be used in connection with the conduct of the alcoholic beverage business to be operated under the license herein applied for?"

In the application for transfer of the 1945-1946 license, and in subsequent renewal applications by Haigh and Minier and by Haigh individually after Minier's withdrawal, Questions 30 and 32 were answered "No".

It is the established public policy in New Jersey that licensees should hold their licenses free from any device which would subject them to the control of other persons. (Rawlins v. Trevethan, 139 N. J. Eq. 226 (1947), citing Walsh v. Bradley, 121 N. J. Eq. 359 (1937); Lachow v. Alper, 130 N. J. Eq. 588 (1942); Mannion v. Greenbrook Hotel, 138 N. J. Eq. 518 (E. and A. 1946); Novack v. Krauz, 138 N. J. Eq. 241 (1946). The agreement herein concerning re-transfer, chattel mortgage and promissory note was unenforceable. (See Rawlins v. Trevethan, supra; Walsh v. Bradley, supra.)

(A letter dated January 31, 1949 from the attorney representing Bertha Barno Carlone at the instant hearing (admitted in evidence herein without objection) advised the attorney for respondent Haigh that he was in possession of the chattel mortgage and promissory note. The letter states that in the event of any litigation in the matter "I will be prepared to testify that the arrangement was that the documents, namely the chattel mortgage, the old note, and the old lease, are to be cancelled and that is why they were delivered to me.")

In my considered opinion the fact that the answer was "No", as hereinabove indicated, to Questions 30 and 32 of the license applications was not a proper or sufficient ground for the denial here appealed from. Appellant had nothing to do with the transactions between Haigh and Bertha Barno Carlone. There has been no objection by anyone as to appellant's character and qualifications, nor has there been any objection to appellant's proposed location and premises. It is difficult to imagine how Haigh's failure to reveal the existence of the agreement with Bertha Barno Carlone could be deemed to bear upon the merits of appellant's application or be deemed to constitute a fraud upon the issuing authority warranting denial of such application. I do not find merit in ground "(b)" of the Answer.

As to "(c)" of the Answer: At the hearing herein Bertha Barno Carlone was asked: "What objections do you have to the transfer of this license?" She answered: "The objection I have is that when Mr. Haigh and I made the agreement he didn't pay me one cent for the license. Now he is going to take the license to some other place and collect money which he isn't entitled to. That is the objection I have. Rightfully, that license belongs on the premises. If we wanted to sell it, why certainly we could have sold it for twelve thousand dollars or probably more ourselves."

Bertha Barno Carlone and Nicholas Barno both testified at the hearing herein that they should have offered no objection to the transfer to appellant if respondent Haigh had adequately compensated them for the license. Their interest is obvious. Nicholas, father of Bertha, is still the landlord of the premises at 529 Market Street and appellant's application was for transfer to other premises. But, as the late Commissioner Burnett stated in Puri v. Warren Township, Bulletin 266, Item 2:

"Apparently the owners....are in the same position as many other owners of property suitable for the conduct of a liquor business when a tenant transfers his license to other premises. The problem is discussed at length in Re Konesky, Bulletin 217, Item 7. However, no one place is entitled to a license more than any other, no matter how long it has previously been licensed....."

And, as stated in Richmond Realty Corporation v. Plainfield, Bulletin 411, Item 1:

"Although it may perhaps seem harsh thus to preclude a landlord..., it must be significantly remembered that the question whether a local issuing authority shall grant or transfer a liquor license in the municipality is not to be determined in light of private controversies....Such controversies, if not adjustable between the parties themselves, must be settled in the courts. For a local issuing authority to seek to unravel them would merely result in bogging down the whole machinery of issuing or transferring liquor licenses, convert the forum into an arena for personal fights between debtor and creditor, and lose sight of the fact that the true test as to whether a license should be denied or a transfer refused is, after all, the public interest." (See, also, Re Rhodes, Bulletin 176, Item 5; Re Mayer, Bulletin 238, Item 9; Re Zabriskie, Bulletin 355, Item 3; Briody and Zinna v. Jersey City, Bulletin 879, Item 2.)

I find no merit in ground "(c)".

As to the Answer's ground "(d)": For the reasons set forth in the consideration of grounds "(b)" and "(c)", I do not find merit in ground "(d)".

Ground "(e)" of the Answer denotes a misapprehension. A municipal issuing authority's discretionary powers are truly broad; and, on appeal, the burden of establishing that its action was erroneous and should be reversed rests with the appellant (Rule 6, State Regulations No. 15). Furthermore, there is no evidence here of any improper motivation on the part of the Committee members. But it does not follow that a reversal may not be ordered where the evidence shows the municipal action to have been unreasonable and abusive of discretionary authority -- where the alleged grounds for denial of application are improper ones or are unsubstantiated. (See Van Schoick v. Howell Township, Bulletin 120, Item 6.)

I find, on the full record before me, that respondent Committee's action was unreasonable and under different circumstances such action should call for reversal. But the license sought to be transferred expired at midnight, June 30, 1951; and on June 22, 1951 respondent Committee granted respondent Haigh's application for 1951-1952 renewal for the premises at 529 Market Street. However, my finding in this appeal does not thereby become moot but is dispositive of identical issues on any application by appellant for transfer to him of the renewed license and to premises at 230 Route 6, Saddle River, N. J. Of course, this appeal is not dispositive of any issue or issues not raised herein.

Accordingly, it is, on this 1st day of August, 1951,

ORDERED that the present appeal be and the same is hereby dismissed.

ERWIN B. HOCK
Director.

4. DISCIPLINARY PROCEEDINGS - BOOKMAKING AND GAMBLING - LICENSE
SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

EUGENE L. RIEHL)
T/a CEDAR TAVERN)
31-35 W. Madison Avenue)
Dumont, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Dumont.)

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

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On December 6, 1950 and on divers days prior thereto, you engaged in and allowed, permitted and suffered bookmaking and gambling in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20."

The file herein discloses that, after a man had been placed under arrest, on December 7, 1950, for picking up bets at another place of business, he gave a statement to members of the Hackensack Police Department wherein he stated that he had also been picking up bets at defendant's licensed premises. In a statement subsequently given to the Hackensack Police, defendant admitted that he knew that the man who had been placed under arrest was a "runner" and that he had placed three bets on horse races with him at the licensed premises on December 6, 1950. Defendant also admitted that he had previously placed similar bets with this man on his licensed premises and that he owed him more than \$200.00. Defendant denied that he had otherwise participated in taking or paying off bets on his licensed premises. I find defendant guilty as charged.

Defendant has no prior record. I shall suspend defendant's license for a period of twenty days, less five for the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 31st day of July, 1951,

ORDERED that Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Dumont to Eugene L. Riehl, t/a Cedar Tavern, for premises 31-35 W. Madison Avenue, Dumont, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. August 7, 1951, and terminating at 2:00 a.m. August 22, 1951.

ERWIN B. HOCK
Director.

5. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

GEORGE STRENGER & JACOB ENDLICH)
397 Henderson Street)
Jersey City 2, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-198 for the 1950-51 and 1951-52 licensing years, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

Albert A. Sann, Esq., Attorney for Defendant-licensees.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that they possessed on their licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe the contents thereof, in violation of Rule 27 of State Regulations No. 20.

On April 19, 1951, an agent of the Alcohol Tax Unit, Internal Revenue Service, United States Treasury Department, during a routine inspection of defendants' licensed premises, seized thereon one quart bottle labeled "Schenley Reserve Blended Whiskey 86 Proof" when his field tests indicated a variance between the label on the bottle and the contents thereof. Subsequent analysis by a Federal chemist confirmed this finding.

Defendant has no prior adjudicated record.

I shall suspend the license for the minimum period usual in violations of this nature, fifteen days, Re Rudolph, Bulletin 680, Item 1. Remitting five days because of the plea will leave a net suspension of ten days.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 18th day of July, 1951,

ORDERED that Plenary Retail Consumption License C-198, issued for the 1951-52 licensing period by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to George Strenger & Jacob Endlich, 397 Henderson Street, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. July 24, 1951, and terminating at 2:00 a.m. August 3, 1951.

ERWIN B. HOCK
Director.

6. DISCIPLINARY PROCEEDINGS - MISLABELED BEER TAP - LICENSE SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

THREE STAR TAVERN)
T/a HIGH LIFE BAR & GRILL)
Cor. Sussex Turnpike & Calais Rd.)
Randolph Township)
P.O. Box 392A, RD 2, Dover, N.J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Randolph.)

Three Star Tavern, Defendant-licensee, by Harold Moyes, President. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it possessed on its licensed premises a tap connected to a barrel of beer, which tap did not bear a marker truly indicating the name or brand of beer being drawn through it, in violation of Rule 26 of State Regulations No. 20.

An ABC agent on routine inspection of defendant's licensed premises on June 28, 1951, found that beer was being drawn from a barrel of "Hensler" beer through a spigot or tap labeled "Schaefer Pale Dry Beer".

Defendant has no prior adjudicated record. I shall suspend the license for three days. Remitting one day because of the plea will leave a net suspension of two days. Re Messeka, Bulletin 904, Item 8.

Accordingly, it is, on this 18th day of July, 1951,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Randolph to Three Star Tavern, t/a High Life Bar & Grill, Cor. Sussex Turnpike & Calais Rd., Randolph Township, be and the same is hereby suspended for a period of two (2) days, commencing at 2:00 a.m. July 24, 1951, and terminating at 2:00 a.m. July 26, 1951.

ERWIN B. HOCK
Director.

7. DISQUALIFICATION - FIVE YEARS' GOOD CONDUCT SINCE CONVICTION OF CRIME INVOLVING MORAL TURPITUDE - PETITION GRANTED.

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

CONCLUSIONS
AND ORDER

Case No. 902.)
-----)

BY THE DIRECTOR:

Petitioner, who has heretofore been ruled ineligible to hold a liquor license or to be connected in any capacity with the alcoholic beverage industry because of his conviction, in March 1946, of a crime involving moral turpitude (Case No. 587, Bulletin 733, Item 2), has applied for a removal of his disqualification.

It appears from the testimony of petitioner that he has been employed as a chauffeur and also had an interest in an amusement business since June 20, 1946, when he appeared at this Division with reference to his eligibility aforementioned. Petitioner testified that, since he was convicted of maintaining a gambling house and bookmaking in March 1946, he has not been associated with the liquor business.

Petitioner produced three witnesses, two of whom are retired and one now actively engaged in a business, who have known petitioner five or more years. They testified that petitioner bears a reputation for being a law-abiding person in the community in which he resides.

The Police Chief of the municipality wherein petitioner lives has advised that there are no complaints or investigations pending concerning petitioner at the present time.

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

Accordingly, it is, on this 20th day of July, 1951,

ORDERED that petitioner's statutory disqualification, because of the conviction of crime mentioned in Case No. 587, supra, be and the same is hereby removed in accordance with the provisions of R. S. 33:1-31.2.

ERWIN B. HOCK
Director.

8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LIBERTY HALL, INC.)
296-8 Sixteenth Avenue)
Newark 3, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-735 for the 1950-51 and 1951-52 licensing years, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

-----)
Giuliano & Giuliano, Esqs., by Anthony Giuliano, Esq., Attorneys for Defendant-licensee.)
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.)

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it possessed on its licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulations No. 20.

On June 4, 1951, an ABC agent, in the course of a routine inspection of defendant's licensed premises, seized one 4/5 quart bottle labeled "Round The World King's Ransom Blended Scotch Whisky 94 Proof" when his field tests disclosed a variance between the label thereon and the contents thereof. Subsequent analysis by the Division chemist disclosed that the whiskey in said seized bottle was 13.4 proof short of the proof stated on the label and that the acids and solids were much higher than in genuine Round The World King's Ransom Blended Scotch Whisky 94 Proof. Said analysis also disclosed a lower percentage of artificial coloring in the seized whiskey. The defendant's claim that these discrepancies are possibly the result of evaporation cannot logically be sustained. Rather, it would appear that said seized whiskey had been adulterated.

Defendant has no previous adjudicated record.

Finding no aggravating circumstances, I shall suspend the license for the minimum period in such cases -- fifteen days. Re Rudolph, Bulletin 680, Item 1. Remitting five days because of the plea will leave a net suspension of ten days.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal license for the licensing year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 30th day of July, 1951,

ORDERED that Plenary Retail Consumption License C-735, issued for the 1951-52 licensing period by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Liberty Hall, Inc., for premises 296-8 Sixteenth Avenue, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. August 6, 1951, and terminating at 2:00 a.m. August 16, 1951.

ERWIN B. HOCK
Director.

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

In the Matter of Disciplinary Proceedings against)

GEORGE WARHOL)
Ramapo Valley Road)
Mahwah, N. J.,)

CONCLUSIONS AND ORDER

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

Bernard L. Stafford, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold, served and delivered to, and permitted the consumption of, alcoholic beverages by, a minor on his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file in the instant case discloses that on June 20, 1951, the defendant served three glasses of beer to a seventeen-year-old soldier in defendant's licensed premises.

Defendant alleges in mitigation of penalty that the minor misrepresented his age at the time in question. The minor contends in a statement given by him to ABC agents that no inquiry was made by defendant regarding his age. In any event, defendant has not established that the minor falsely represented, in writing, that he was twenty-one years of age or over, as required by R. S. 33:1-77(a). See Bulletin 758, Item 2.

Defendant has no previous adjudicated record. The age of the minor must be considered as an aggravating circumstance herein. Considering all the aspects of the case, I shall suspend the license of defendant for fifteen days, less five days' remission because of the plea, leaving a net suspension of ten days. Re Drucker, Bulletin 801, Item 5.

Accordingly, it is, on this 31st day of July, 1951,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Townshio of Mahwah to George Warhol, for premises on Ramapo Valley Road, Mahwah, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. August 6, 1951, and terminating at 2:00 a.m. August 16, 1951.

ERWIN B. HOCK
Director.

10. INTERPRETATIONS OF RULES OF STATE REGULATIONS NO. 39 (EXTENSION OF CREDIT BY MANUFACTURERS AND WHOLESALERS TO RETAIL LICENSEES).

TO ALL NEW JERSEY MANUFACTURERS AND WHOLESALERS:

Experience in the application and enforcement of State Regulations No. 39 (Extension of Credit by Manufacturers and Wholesalers to Retail Licensees) has demonstrated the desirability and necessity of announcing the following interpretations and rulings for the guidance of licensees concerned:

1. With respect to so much of Rule 1 of State Regulations No. 39 as requires that "payment...be made within a period not in excess of thirty (30) days after date of delivery", where payment by the retailer is made by mail, it will be deemed that payment has been made within the thirty (30)-day period if the envelope containing the remittance is postmarked not later than 1:00 p.m. of the 31st day after the date of delivery (on the theory that items deposited in the mail during the evening of one day may be postmarked as late as 1:00 p.m. the next day, especially during periods of curtailed postal delivery and pickup), provided the envelope is retained by the manufacturer or wholesaler for a period of one year. If the "31st day after date of delivery" falls on a Saturday, Sunday, or any one of the following: January 1st (New Year's Day), February 12th (Lincoln's Birthday), February 22nd (Washington's Birthday), Good Friday, May 30th (Memorial Day), July 4th (Independence Day), the first Monday in September (Labor Day), October 12th (Columbus Day), November 11th (Armistice Day), the fourth Thursday of November (Thanksgiving Day), December 25th (Christmas Day), any general election day, or on any day heretofore or hereafter appointed, ordered or recommended by the Governor of the State of New Jersey or by the President of the United States as a day of fasting and prayer or other religious observance, or upon any Monday observed as any such holiday when any such holiday shall fall on a Sunday, then the "31st day" shall mean the business day next immediately following such holiday. It should be noted that the thirty-day credit term ends on the thirtieth day following the day of delivery.

2. With respect to Rule 2(a) of State Regulations No. 39, which designates a retail licensee as in default if he has failed to make payment within 30 days after delivery, a defaulted unpaid balance not in excess of \$1.00 in the aggregate will not be construed as such a failure on the part of the retailer necessitating his being reported as in default.

3. With respect to so much of Rule 2(c) of State Regulations No. 39 as prescribes that "Ordinary checks may not be accepted as payment of a defaulted account", this means that ordinary checks may not be accepted as either full or partial payment. Defaulted accounts must be fully discharged (either in lump sum or installments) by payment in cash as defined in Rule 1(c). Likewise, ordinary checks may not be accepted as either full or partial payment for any alcoholic beverages delivered to a retailer listed on the Default List at the time of delivery.

4. With respect to Rule 5(b) of State Regulations No. 39 which requires the filing of notice of default within 3 days "after a retail licensee becomes in default", in the event that a retail licensee holds licenses for two or more licensed premises, such notice of default need be filed only with relation to the particular premises to which was made the delivery as to which subsequent default in payment occurred. Accordingly, the listing of a retailer as in default is applicable only to that retailer at the address listed in the Default List even though the same retailer may hold other licenses for other premises at other addresses.

5. With respect to the requirement of Rule 5(d) of State Regulations No. 39 that notice of termination of default shall be filed with the Director within 3 days after "a retail licensee ceases to be in default", where a manufacturer or wholesaler has filed more than one notice of default against a particular retailer, the filing of payment notice may be deferred until payment of all of the defaulted items is received, provided the payment notice itemizes all defaulted items cleared by such notice.

6. In the event that payment is made by a retailer to a solicitor or other agent or employee of a manufacturer or wholesaler, the person receiving such payment shall receipt for the same either by separate receipt or by notation upon the delivery slip, invoice, manifest, or similar document covering the particular delivery, which receipt or notation shall set forth the amount of payment, the form in which received, the date on which received, and the signature of the person receiving the payment.

ERWIN B. HOCK
Director.

11. DISCIPLINARY PROCEEDINGS - STATE BEVERAGE DISTRIBUTOR LICENSEE - FAILURE TO FILE WITH DIRECTOR NOTICE OF DEFAULT BY RETAIL LICENSEE, IN VIOLATION OF STATE REGULATIONS NO. 39 - LICENSE SUSPENDED FOR 5 DAYS.

In the Matter of Disciplinary Proceedings against)

O. K. BOTTLING CO., INC.)
Rear of 70 Barnt Avenue)
Trenton 10, N. J.,)

CONCLUSIONS
AND ORDER

Holder of State Beverage Distributor's License SBD-170 for the 1950-51 and 1951-52 licensing years, issued by the Director of the Division of Alcoholic Beverage Control.)

-----)
Leo J. Berg, Esq., Attorney for Defendant-licensee.
Anthony Meyer, Jr., Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On March 9, April 6, April 17 and April 20, 1951, each date being more than three days after a New Jersey retail licensee became in default to you pursuant to Rule 2(a) of State Regulations No. 39, you failed to file with the Director of Alcoholic Beverage Control a notice of such default, in that you failed to notify the said Director that retail licensee --- had failed to make payment for beer delivered to it by you on February 2, March 2, March 12 and March 16, 1951, respectively; in violation of Rule 5(b) of State Regulations No. 39.

"2. On March 9, April 6, April 13 and April 20, 1951, each date being more than three days after a New Jersey retail licensee became in default to you pursuant to Rule 2(a) of State Regulations No. 39, you failed to file with the Director of Alcoholic Beverage Control a notice of such default, in that you failed to notify the said Director that retail licensee --- had failed to make payment for beer delivered to it by you on February 2, March 2, March 9 and March 17, 1951, respectively; in violation of Rule 5(b) of State Regulations No. 39."

The charges herein are so explicit as to the facts relating to this proceeding that it would be redundant to repeat them.

Defendant was given an opportunity to obtain a special permit. See Bulletin 849, Items 1 and 3. Having failed to do so, the present proceedings were instituted.

Defendant has no previous adjudicated record. Considering all the circumstances and the plea entered herein, I shall suspend defendant's license for a period of five days. Re Gallo Wine Sales of New Jersey, Inc., Bulletin 861, Item 1.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal license for the licensing year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 23rd day of July, 1951,

ORDERED that State Beverage Distributor's License SBD-170, issued for the 1951-52 licensing period by the Director of the Division of Alcoholic Beverage Control to O. K. Bottling Co., Inc., for premises Rear of 70 Barnt Avenue, Trenton, be and the same is hereby suspended for a period of five (5) days, commencing at 7:00 a.m. July 30, 1951, and terminating at 7:00 a.m. August 4, 1951.

ERWIN B. HOCK
Director.

12. STATE LICENSES - NEW APPLICATIONS FILED.

Motor Freight Service, Inc.

Suite 1702, 60 Park Place, Newark, N. J.

Application filed July 26, 1951 for transfer from place to place of Transportation License from 41 Cherry Street, Newark, N. J.

L. & H. Transportation Co., Inc.

3212 Smallman Street, Pittsburgh 1, Pennsylvania.

Application filed July 27, 1951 for Transportation License.

Warco Service, Inc.

437 Somerset Street, North Plainfield, N. J.

Application filed July 31, 1951 for Transportation License.

P. Donohue & Sons, Inc.

3928 Marlton Pike, Camden 5, Pennsauken, Pennsauken Township, N.J.

Application filed August 7, 1951 for transfer from place to place of Limited Wholesale License WL-74 from N/W Cor. Essex Street & Penna.-Reading Seashore Line or 511 Essex Street, Gloucester City, N. J.

ERWIN B. HOCK
Director.

13. DISQUALIFICATION - FIVE YEARS' GOOD CONDUCT SINCE CONVICTION OF CRIME INVOLVING MORAL TURPITUDE NOT SHOWN - PETITION DENIED.

In the Matter of an Application)	
to Remove Disqualification)	
because of a Conviction, Pursuant)	CONCLUSIONS
to R. S. 33:1-31.2.)	AND ORDER
Case No. 904.)	
-----)	

BY THE DIRECTOR:

On June 19, 1942, petitioner was sentenced by a Judge of a Court of Quarter Sessions to serve a term of from one to two years in a State prison after he was convicted of a charge of accepting earnings of prostitutes. He was paroled from the penal institution on April 11, 1943. The crime of accepting earnings of prostitutes is, in the opinion of the Director, a crime which involves the element of moral turpitude. Hence, petitioner is disqualified by statute from holding a license or being employed in any business capacity whatsoever on licensed premises.

Five years have elapsed since petitioner's last conviction of a crime. However, on July 22, 1949, he pleaded guilty to a charge of being a disorderly person and, as a result thereof, was fined \$25.00 by a Municipal Magistrate. Because of this conviction, I am unable to conclude that petitioner has conducted himself in a law-abiding manner during the past five years. Therefore, I must deny his application for relief under the provisions of R. S. 33:1-31.2. He will not be eligible to apply for relief under this section prior to July 22, 1954.

Accordingly, it is, on this 20th day of July, 1951,

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

Emura B Hook
Director.