

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

August 22, 1967

BULLETIN 1746

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1. APPELLATE DECISIONS - MACZKA v. ELIZABETH.

John Maczka and Stasia)	
Maczka, t/a Pop's Tavern,)	
)	
Appellants,)	On Appeal
v.)	
)	
City Council of the City)	CONCLUSIONS
of Elizabeth,)	AND ORDER
)	
Respondent.)	

Licensees, Pro se.
Edward W. McGrath, Esq., by Frank P. Trocino, Esq., Attorney
for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following report, herein:

Hearer's Report

Appellants, holders of a plenary retail consumption license for premises 230 Second Street, Elizabeth, entered pleas of non vult to the following three charges in disciplinary proceedings instituted by respondent:

1. "On Monday, April 4, 1966, at approximately 11:30 PM, you allowed, permitted and suffered the employment and presence of one Brenda ---, an infant female of the age of fifteen (15) years, in and upon your licensed premises for purposes of entertainment and dancing, to wit, a 'go-go' girl in violation of Rule 3 of State Regulation No. 13.
2. "On Sunday, October 2, 1966, at 3:15 P.M. you sold, served and delivered an alcoholic beverage to John ---, a person under the age of twenty-one years in and upon your licensed premises in violation of Rule 1 of State Regulation No. 20.
3. "...on Sunday, October 2, 1966 you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage at retail in its original container for consumption off the licensed premises, in violation of Rule 1 of State Regulation No. 38."

Whereupon, respondent Council voted unanimously to revoke the license effective February 3, 1967.

Upon the filing of this appeal challenging such action, an order, dated February 9, 1967, was entered by the Director staying the effect of the Council's order of revocation pending the determination of this appeal.

In their petition of appeal, appellants allege that the Council found appellants guilty, and that such action was erroneous because, in summary, it was contrary to the weight of the evidence and to "laws and regulations pertaining to this charge." However, at the opening of this hearing, the attorney for appellants acknowledged that the action of the Council was predicated upon the pleas of non vult so that actually there was not any hearing on or testimony taken with respect to the charges. He further conceded that he represented appellants at the said hearing, and the said pleas were entered voluntarily, knowingly, understandingly and with his advice. Nor has there been any allegation in the petition that the said pleas were entered as a result of mistake or misrepresentation.

Counsel therefore agrees that an application to set aside the said plea and try the matter on its merits is untenable. If such application were, indeed, made, it would be controlled by the principles enunciated in In re 17 Club, Inc., 26 N.J. Super 43 (App. Div. 1953). That case involved an appeal from the action of the Director in refusing permission to a licensee to retract its plea of non vult after revocation of its license. The court stated:

"The allowance by the Director of a formal hearing on the petition to reinaugurate the proceedings was essentially a discretionary matter. Cf. Clark v. State, 57 N.J.L. 489 (Sup. Ct. 1895), affirmed 58 N.J.L. 383 (E. & A. 1895); State v. Piracci, 14 N.J. Super. 319 (App. Div. 1951); State v. Pometti, 23 N.J. Super. 516 (App. Div. 1952). Our courts do not after the imposition of sentence interfere with the denial of a motion to withdraw a plea of nolo contendere unless it is necessary to do so to correct manifest injustice."

The same principle is applicable to such actions by a local issuing authority. Schepis v. Paterson, Bulletin 1469, Item 2.

At my suggestion, paragraph 2 of the petition was accordingly amended to read as follows:

"On the 2nd day of February, 1967, respondent adopted a resolution revoking appellants' license effective February 3, 1967 after accepting a plea of non vult on three charges preferred against the appellants in alleging violations of the state regulations."

Appellants also withdrew paragraphs a, b, c and d of paragraph 3 and substituted instead paragraph "a" to the following effect: that the penalty was excessive.

The answer of respondent generally denying the allegations of the petition is equally applicable to the petition as amended.

Thus the hearing on this appeal de novo addressed itself to the pivotal and sole issue in this matter, namely, whether the penalty imposed was so excessive as to constitute arbitrary and capricious action and an abuse of Council's discretion.

The stenographic transcript of the proceedings before the Council, which was admitted into evidence at this plenary de novo hearing on appeal, as authorized by Rule 8 of State Regulation No. 15, and upon which the Council relied for its presentation herein, reflects the following: At a continued hearing before the Council on February 2, 1967, it was noted that appellants had theretofore entered pleas of non vult to the three charges hereinabove set forth, and the secretary of the Council set forth for the consideration of the Council the prior record and pleas of appellants. He first read the letter in which appellants stated that:

"At the time of the sale of liquor in the original container, it was our bartender who sold it. And we know that we are responsible for their actions while in our employment....And we, the owners, John Maczka and Stasia Maczka, would like to enter a plea of non vult on all the charges against us."

The secretary read the following background record of the appellants:

1. Suspension of 10 days effective September 25, 1959, for sale after hours, in violation of Rule 1 of State Regulation No. 38;
2. Suspension of appellants' license for 30 days effective April 3, 1963, for sale on General Election Day, in violation of Rule 2 of State Regulation No. 20;
3. Suspension of 20 days effective August 31, 1965, upon a plea of non vult to a charge they sold alcoholic beverages the contents of which were not truly described, in violation of Rule 27 of State Regulation No. 20.

Nos. 4, 5 and 6 represent the three charges hereinabove set forth.

In addition to the above adjudicated matters, it was noted that appellants were called before the Council in June 1966 "due to excessive number of police calls to the licensed premises during the 1965-1966 licensing period."

Further, a letter was received by appellants on September 19, 1966, from this Division to the effect that this Division was in receipt of information indicating that "off-color" entertainment and the congregation of apparent homosexuals were permitted on the premises, in violation of Rules 4 and 5 of State Regulation No. 20. At the time, a warning was given to immediately discontinue such action, and the Director added:

"...it is pointed out that a licensee is held fully accountable in disciplinary proceedings for all violations allowed, permitted or suffered by his agents, servants and employees and also by all other persons whose services are utilized on the licensed premises to further the licensed business, whether they are compensated or not (Rule 33 of State Regulation No. 20 and Bulletins 466, Item 8 and 808, Item 6); that licensees and persons employed on the licensed premises may not avoid their responsibility for the conduct of the licensed

business by merely closing their eyes and ears but, on the contrary, they must use their eyes and ears and use them effectively to prevent any improper use of the licensed premises (Bulletin 527, Item 3); that proper liquor control dictates that female impersonators and the congregation of other persons who appear to be homosexuals, viz., 'fairies', 'queers', etc., must be staunchly prohibited on licensed premises (Rule 4 and 5 of State Regulation No. 20; and Bulletin 1133, Item 2); and that there is the ever-present need and requirement that licensees institute, take and maintain steps to see to it that no violations of the Alcoholic Beverage Law or Regulations occur on the licensed premises under any circumstances whatsoever."

Further, the police blotter shows that the following calls were made to the licensed premises:

- On January 8, 1966, injured man (struck by bottle outside licensed premises);
- On April 23, 1966, man cut (cutting inside licensed premises);
- On May 14, 1966, woman assaulted in front of the licensed premises;
- On May 26, 1966, assault (assaulted at licensed premises by owner);
- On May 28, 1966, assault (struck by beer bottle at licensed premises).

The Council concluded that, on the basis of an adjudicated record involving five offenses in seven years, of which three occurred in the past two years, and the admitted lack of proper supervision of these premises, the only just penalty was outright revocation.

Appellants pleaded both before the Council and at this appeal hearing that (1) the violations occurred as a result of the acts of their employees and in their absence and, therefore, the penalty of revocation was too severe and excessive, and (2) they should be given an opportunity to dispose of their license by sale in order to avoid a tremendous financial loss to themselves.

As to (1): Both appellants testified at the present hearing, in effect, that they were unable fully and properly to supervise the premises and that these occurrences took place without their knowledge and were permitted by their agents and employees. John Maczka stated that he had been in poor health and was unable adequately to supervise the activities of the tavern. His sister (the co-appellant) stated that for approximately two years, she was required to nurse her sick mother who recently died, and was also unable to give the kind of supervision that these premises required.

Both appellants testified with a commendable degree of forthrightness, not unmixed with naivete, in admitting that the premises were improperly supervised; that the employees conducted its activities without their knowledge, and that these incidents resulted from their ineptness and negligence. This, of course, is no satisfactory reason for exculpating appellants for the profligacy of their

conduct. As the Director pointed out in his letter to them, the conduct of their employees in the performance of their duties on licensed premises is the responsibility of the licensees. To this I would add that it is a well established and fundamental principle that a licensee is responsible for the misconduct of his employees and is fully responsible for their activities during their employ on licensed premises. In re Olympic, Inc., 49 N.J. Super. 299; In re Schneider, 12 N.J. Super. 449; Rule 33 of State Regulation No. 20. Furthermore, the responsibility of the licensee does not depend upon his personal knowledge or participation. In fact, it has been held that a licensee is not relieved even if the employee violates his explicit instructions. Greenbrier, Inc. v. Hock, 14 N.J. Super. 39 (App. Div. 1951); F. & A. Distrib. Co. v. Division of Alcoholic Beverage Control, 36 N.J. 34 (1961).

Thus, as expressed by Councilman Daaleman in offering the motion for revocation of the license:

"Mr. President, in view of the licensees' past record of offenses, including the fact that there have been three offenses within the last two years, and in view of the fact that the licensees, by their own admission, have indicated their inability to supervise the establishment, I move that the license be immediately revoked."

After the entry of pleas of non vult, the Council had a mandate to determine whether appellants' license should be suspended or revoked. In this connection, it should be noted that a liquor license is a mere privilege. Paul v. Gloucester County, 50 N.J.L. 585 (E. & A. 1888); Mazza v. Cavicchia, 15 N.J. 498 (1954). And, as Judge Jayne, speaking for the court in In re 17 Club, Inc., supra, said:

"The governmental power extensively to supervise the conduct of the liquor business and to confine the conduct of that business to reputable licensees who will manage it in a reputable manner has uniformly been accorded broad and liberal judicial support."

In the exercise of that power, the Legislature invested the local issuing authority (Council) with the power to suspend or revoke licenses, after hearing, for certain enumerated violations including violation of the law or of State or local regulations. R. S. 33:1-31.

The penalty to be imposed in disciplinary proceedings instituted by a local issuing authority rests within its sound discretion, in the first instance, and the power of the Director to reduce it on appeal should be exercised only where such penalty is manifestly unreasonable and clearly excessive. Porton v. Roselle, Bulletin 974, Item 3; Benedetti v. Trenton, Bulletin 1040, Item 1, aff'd 35 N.J. Super. 30; Harrison Wine and Liquor Co., Inc. v. Harrison, Bulletin 1296, Item 2.

So, in Nordco, Inc. v. State, 43 N.J. Super. 277, the court took into consideration a series of complaints received by the Police Department and determined that the appellant's licensed premises was a trouble spot. Similarly,

in this case, the Council clearly concluded to the same effect. Cf. Oak Inn, Inc. v. State etc. (App. Div. 1963), not officially reported, reprinted in Bulletin 1523, Item 2; Rajah Liquors v. Division of Alcoholic Beverage Control, 33 N.J. Super. 598 (App. Div. 1955).

In view of the above, it appears unarguable that the Council acted within the wide discretion given to it under the statute and the regulations of this Division, and that it properly determined that the continued operation of these licensed premises by these appellants was inimical to the public interest. I, therefore, conclude that the Council acted reasonably and properly in its determination to revoke the said license.

As to (2): Appellants plead for a modification of the order of revocation in order to afford them an opportunity to transfer their license to a suitable operator. They urge that their entire life-savings have been invested in these premises and they have become seriously financially obligated due to personal family health problems. While their financial situation is regrettable and deserves sympathetic consideration, it nevertheless is a fundamental principle that private interests are always subordinate to the paramount considerations of the public safety and welfare. As pointed out hereinabove, since municipal issuing authorities are primarily responsible for policing of licensed premises (R.S. 33:1-24; R.S. 33:1-71), they must be given considerable latitude in determining the extent to which the license privilege should be suspended or revoked. Thus the extent of such penalty lies within its sound discretion, and such penalty will not be reduced on appeal unless it is clearly shown to be an abuse of discretion. In any event, the plea for mitigation should be made, if at all, to the Council which may grant relief in the event that it determines such action to be advisable. Triano v. Bloomfield, Bulletin 677, Item 10.

Such request on this appeal should be denied in view of my findings hereinabove.

A comparable application to transfer a license was considered in Nordco, Inc. v. State, supra (43 N.J. Super. at p. 289), where the court expressed the following:

"...it is to be observed that in view of the Division's determination that the tavern constituted a 'trouble spot', it could hardly be claimed that there was any abuse in discretion in not affording Nordco an opportunity to transfer the license to a certain vendee under contract with Nordco, who wanted to continue the business at the same location."

This ruling applies with equal vigor in revocation proceedings. Julie's Inn, Inc. v. Hoboken, Bulletin 1634, Item 1.

In conclusion, under the totality of the circumstances herein, I cannot find that respondent's action was either unreasonable or arbitrary. Hence, appellants have failed to sustain the burden of establishing that the Council's action was erroneous (Rule 6 of State Regulation No. 15). It is, therefore, recommended that an order be entered affirming the Council's action and reimposing the order of revocation.

Conclusions and Order

After receipt of the Hearer's report, the attorney for appellants advised me by letter that he has withdrawn from this matter. However, a letter was received from appellants requesting reconsideration of the Hearer's recommendation, which I shall consider as a written exception to the Hearer's report pursuant to Rule 14 of State Regulation No. 15.

I have carefully examined the entire record herein, including the transcript of the proceedings, the exhibits, the argument in summation by appellants' attorney, the Hearer's report and the exception thereto. I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 8th day of June, 1967,

ORDERED that the action of respondent be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that Plenary Retail Consumption License C-129, issued by the City Council of the City of Elizabeth to John Maczka and Stasia Maczka, t/a Pop's Tavern, for premises 230 Second Street, Elizabeth, be and the same is hereby revoked, effective immediately.

JOSEPH P. LORDI
DIRECTOR

2. APPELLATE DECISIONS - GATEWAY INN, INC. v. SHIP BOTTOM.

Gateway Inn, Incorporated, t/a)
Gateway Inn, Incorporated,)
Appellant,)
v.)
Borough Council of the Borough)
of Ship Bottom,)
Respondent.)

On Appeal
CONCLUSIONS
AND
ORDER

Carton, Nary, Witt & Arvanitis, Esqs., by Thomas D. Nary, Esq.,
Attorneys for Appellant.
No Appearance on behalf of Respondent.
Richard J. Shackleton, Esq., Attorney for Objectors.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellant appeals from respondent's action denying an application for a place-to-place transfer of appellant's plenary retail consumption license from premises 215 West 8th Street to premises 227 West 8th Street, Ship Bottom.

Appellant's petition of appeal alleges that the action of respondent was erroneous for the following reasons:

- "(a) The transfer had been theretofore legally approved;
- (b) Whether said structure complied with Regulation #32 was not within the jurisdiction of the Borough; and
- (c) The building does comply with NJSA 33:1-12.23 et seq. and the State Regulation pertaining thereto."

No answer was filed by respondent and there was no appearance on behalf of respondent at the hearing herein.

Emilio Guida, Jr. (president of appellant corporation) testified that the former licensed premises "was a rectangular-shaped building" containing a "thirty-foot bar, tables in the front, restrooms off to the side;" that, in accordance with plans submitted, the original building, previously used as the licensed premises, was moved "about fifty feet, fifty-two feet directly west, set it back off the road, and after I moved the building I was adding on twenty-four feet to the rear and forty feet to the west side. And we opened up the walls, made the place -- expanded, made the place bigger. And I relocated my bar as it shows in the plans there, an eighty-four-foot bar."

The attorney for the two objectors (each a holder of a plenary retail distribution license) does not dispute that the plans (both interior and exterior) submitted by appellant were strictly followed in the erection of the building for which the transfer of appellant's license is sought. However, he contends that the outside of the building and the layout of the interior thereof are such as to violate Rule 6 of State Regulation No. 32, the pertinent part of which reads as follows:

"From on and after July 1, 1948, no holder of a plenary retail consumption license... shall sell or display for sale any alcoholic beverage in the original container for off-premises consumption except from and in the public barroom of the licensed premises...."

An examination of the floor plan in this matter shows the section of the building where the bar is located to be approximately 44 x 48 feet, toward the front of which is a rectangular bar with rounded corners having an all-over perimeter of 84 feet, and has thirty-five bar stools; the adjoining section, being 40 x 30 feet also located in the front of the building, is where appellant intends to display package goods and make sales thereof in original containers for off-premises consumption. There is an opening between the section of the premises where the bar is located and the section where display and sale of package goods is intended of approximately 19 feet. This opening has a folding metal gate for use to separate said section during the prohibited hours of sale of alcoholic beverages in original containers for consumption off the premises.

Judge Freund, in Totowa v. Chicken Barn, Inc., 41 N.J. Super. 459, 464 (App. Div. 1956) stated that "since no walls were to be erected to separate the bar from the

package goods display, the proposed changes merely enlarge the area wherein package goods are displayed, and thus there was no violation of either the statute or regulations."

In the matter sub judice, a similar situation prevails.

In Coral Lounge and Cocktail Bar, Inc. v. Hock, 5 N.J. Super. 163, 167 (App. Div. 1949), Judge Colie said:

"... The requisite standard or guide appears in the section [R.S. 33:1-12.23] under attack wherein a barroom is defined as 'a room containing a public bar, counter or similar piece of equipment'... it seems clear to us that a barroom means that portion included within the four walls of the room in which the bar is located."

After careful consideration of the entire record herein, I am satisfied that, since there are no permanent barriers to prevent access from or ingress to the section where the bar is located and the section contemplated for display and sale of unopened bottles of alcoholic beverages, the two sections may be considered as one and represent the "public barroom in the licensed premises." It is apparent, therefore, that this layout does not violate the requirements of the statute. R.S. 33:1-12.23. This being so, appellant is not prohibited from displaying and selling alcoholic beverages in original containers for off-premises consumption.

The other contention made by the objectors herein concerning the appearance of the exterior of appellant's licensed premises has been fully and adequately answered by the Director in Nomat, Inc. v. Maple Shade, Bulletin 1734, Item 2, and is apropos to the matter herein. The Director remarked as follows:

"...from the date of adoption of such law in 1948, this Division has consistently construed the definitional section of such statute as being exclusive, permitting no implementation, by way of interpretation, regulation, ordinance or special condition, that would superimpose an 'appearance' requirement upon the definition of a 'public barroom' contained therein."

Moreover, the Director stated in said case that the "statute may not be enlarged upon in the name of local discretion."

I have carefully considered the objections expressed during the hearing, and conclude that there has been insufficient proof with reference thereto to warrant the denial of the transfer.

The burden of proof to establish that the action of respondent was erroneous rests with the appellant. Rule 6 of State Regulation No. 15. The evidence presented indicates that the action of the respondent was unreasonable and constituted an abuse of discretion on its part.

Under the circumstances, after careful examination of the exhibits and the evidence presented, it is apparent that appellant has sustained the burden imposed upon it. Thus it is recommended that the action of respondent be reversed, and that

respondent be directed to transfer appellant's current plenary retail consumption license in accordance with the transfer application heretofore filed by appellant.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record, including the transcript, exhibits and the Hearer's report, I concur in the findings of the Hearer and adopt his recommendations.

Accordingly, it is, on this 13th day of June, 1967,

ORDERED that the action of the respondent be reversed, and that the respondent is ordered to transfer the license in accordance with the application filed by the appellant herein.

JOSEPH P. LORDI
DIRECTOR

- 3. DISCIPLINARY PROCEEDINGS - SALES TO INTOXICATED PERSONS - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 90 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Subar, Inc.)
t/a Pink's Bar)
818 Broadway)
Camden, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-129, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

Licensee, by Bernard Silver, Secretary-Treasurer, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on April 22, 1967 it sold drinks of beer to four intoxicated persons, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for forty days effective October 4, 1962 for sale to a minor, sale to an intoxicated person, permitting foul language on the licensed premises and serving females over the bar in violation of municipal regulation (Re Subar, Inc., Bulletin 1481, Item 5) and for eighty days effective September 22, 1964 for sale to intoxicated persons, permitting foul language and hostess activity on the licensed premises (Re Subar, Inc., Bulletin 1586, Item 2).

The minimum penalty for an unaggravated first offense for sale to an intoxicated person is suspension of license for twenty days. Re Hudimac, Inc., Bulletin 1716, Item 6. However, where, as here, the violation is deemed aggravated by the number of persons involved, the minimum suspension is thirty days. Re Schmidt, Bulletin 1654, Item 9; Re Triple T., Inc., Bulletin 1639, Item 2. Further, for a third similar offense within five years the minimum penalty for that offense is trebled. Cf. Re Barone, Bulletin 1584, Item 4.

Hence, the prior record of two suspensions of license for similar violation within the past five years considered, the license will be suspended for ninety days, with remission of five days for the plea entered, leaving a net suspension of eighty-five days.

Accordingly, it is, on this 8th day of June, 1967,

ORDERED that Plenary Retail Consumption License C-129, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Subar, Inc., t/a Pink's Bar, for premises 818 Broadway, Camden, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1967, commencing at 2:00 a.m. Thursday, June 15, 1967; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Friday, September 8, 1967.

JOSEPH P. LORDI
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR AND DISSIMILAR RECORD - LICENSE SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Peter G. McDermott)
807 Ocean Avenue)
Jersey City, N.J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-179 issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

Robbins and Reger, Esqs., by Malcolm J. Robbins, Esq., Attorneys for Licensee.

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

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 16, 1967, he sold a pint bottle of gin for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license (then held in partnership with Thomas Corridon for premises 228 Old Bergen Road, Jersey City) by the Director for ten days effective April 30, 1963, for possession of alcoholic beverages not truly labeled. Re Corridon and McDermott, Bulletin 1514, Item 5. In addition, the licensee has a record of suspension of license by the Director for forty-five days, effective July 26, 1966, on two separate charges of violation of Rule 1 of State Regulation No. 38. Re McDermott, Bulletin 1692, Item 6.

The prior record of suspension of license for two similar violations within the past five years considered, the license will be suspended for forty-five days (Re Lou-Mac, Inc., Bulletin 1719, Item 5), to which will be added five days by reason of the record of suspension for dissimilar violation occurring within the past five years (Re Lake, Inc., Bulletin 1732, Item 7), or a total of fifty days, with remission of five days for the plea entered, leaving a net suspension of forty-five days.

Accordingly, it is, on this 12th day of June 1967,

ORDERED that Plenary Retail Consumption License C-179, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Peter G. McDermott, for premises 807 Ocean Avenue, Jersey City, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1967, commencing at 2:00 a.m. Monday, June 19, 1967; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Thursday, August 3, 1967.

JOSEPH P. LORDI
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - GAMBLING - PRIOR SIMILAR RECORD -
LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
Maxwell Tavern & Grill, Inc.)
1039 Washington St. running)
thru to 61-63 @ 11th St.)
Hoboken, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-100 issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Hoboken.)

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

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2)
alleging that on divers days between April 19 and May 4, 1967,
it permitted acceptance of numbers bets on the licensed premises,
in violation of Rules 6 and 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license
by the Director for thirty-five days effective May 7, 1958, for
permitting acceptance of numbers bets, employing bartenders
without work permits in violation of municipal ordinance, and
failure to have copy of license application on premises.
Re Maxwell Tavern & Grill, Inc., Bulletin 1230, Item 2.

The prior record of suspension of license for similar
violation more than five but less than ten years ago considered,
the license will be suspended for sixty-five days, with remission
of five days for the plea entered, leaving a net suspension of
sixty days. Re Gallipoli, Bulletin 1597, Item 4.

Accordingly, it is, on this 19th day of June, 1967,

ORDERED that Plenary Retail Consumption License C-100,
issued by the Municipal Board of Alcoholic Beverage Control of
the City of Hoboken to Maxwell Tavern & Grill, Inc., for premises
1039 Washington Street running through to 61-63 - 11th Street,
Hoboken, be and the same is hereby suspended for the balance of
its term, viz., until midnight, June 30, 1967, commencing at
2:00 a.m. Monday, June 26, 1967; and it is further

ORDERED that any renewal license that may be granted
shall be and the same is hereby suspended until 2:00 a.m. Friday,
August 25, 1967.

JOSEPH P. LORDI
DIRECTOR

6. DISQUALIFICATION REMOVAL PROCEEDINGS - SMUGGLING - ORDER REMOVING DISQUALIFICATION.

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. 2123

I. Arthur Levy, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

Petitioner's criminal record discloses that on February 7, 1958, he was convicted in a federal court for smuggling in violation of Section 545 USC Title 18 and, as a result thereof, was given a suspended sentence, fined \$100 and placed on probation for one year.

Since the crime of which petitioner was convicted involves the element of moral turpitude (Re Case No. 1991, Bulletin 1683, Item 12); 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 (42 years old) testified that he is married and living with his wife and one minor child; for the past eight years he has resided in the municipality where he presently resides; and that since 1951 he has been employed as a laborer and a truck driver.

Petitioner further testified that he is asking for removal of his disqualification to be free to accept employment in the alcoholic beverage industry in this State, and that, ever since his conviction in 1958 he has not been convicted of any crime or arrested.

Petitioner produced three character witnesses (a part owner of a cleaning and dyeing store, a laborer and a longshoreman), 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 Police Department of the municipality wherein petitioner resides reports there are no complaints or investigations presently pending against the petitioner.

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

Accordingly, it is, on this 19th day of June, 1967,

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.

JOSEPH P. LORDI
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Charles McNeil 601 First Street Hoboken, N. J. Holder of Plenary Retail Consumption License C-110, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken

CONCLUSIONS AND ORDER

George R. Wiggs, Esq., Attorney for Licensee. David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on August 23, 1966, he possessed alcoholic beverages in four bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for fifteen days effective September 16, 1964, for sale to minors and employing a person without identification card required by municipal ordinance, and for ten days effective November 30, 1964, for sale to minors.

The prior record of two suspensions of license for dissimilar violations within the past five years considered, the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re R S M Associates, Inc., Bulletin 1618, Item 8.

Accordingly, it is, on this 13th day of June, 1967,

ORDERED that Plenary Retail Consumption License C-110, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Charles McNeil for premises 601 First Street, Hoboken, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1967, commencing at 2:00 a.m. Monday, June 19, 1967; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Friday, July 14, 1967.

JOSEPH P. LORDI DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 George Zare)
 t/a Zaro's Bar & Grill)
 249 Avenue E)
 Bayonne, N. J.,)
 Holder of Plenary Retail Consumption License C-106, issued by the Municipal Council of the City of Bayonne.)

CONCLUSIONS and ORDER

Licensee, Pro se
 Leon Chorkavy, Jr., Esq., Appearing for Division of Alcoholic Beverage Control
 BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on April 11, 1967 he possessed alcoholic beverages in two bottles which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

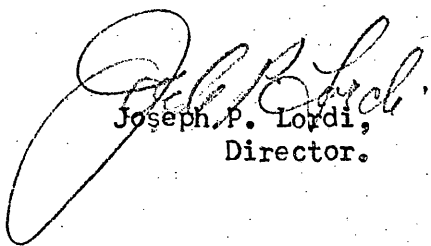
Licensee has a previous record of suspension of license by the Director for thirty-five days effective January 7, 1957 for permitting solicitation for perverted sexual intercourse, foul language and sale of contraceptives on the licensed premises (Re Zare, Bulletin 1150, Item 2).

The prior record of suspension of license for dissimilar violations occurring more than five years ago disregarded, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Hrabowecky, Bulletin 1735, Item 6.

Accordingly, it is, on this 20th day of June, 1967,

ORDERED that Plenary Retail Consumption License C-106, issued by the Municipal Council of the City of Bayonne to George Zare, t/a Zaro's Bar & Grill, for premises 249 Avenue E, Bayonne, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1967, commencing at 2 a.m. Tuesday, June 27, 1967; 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. Friday, July 7, 1967.



Joseph P. Lordi,
 Director.