

Harold Miller
41 Sheffield St.
Jersey City 5, N. J.
STATE OF NEW JERSEY

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

BULLETIN 931

APRIL 9, 1952.

TABLE OF CONTENTS

ITEM

1. ACTIVITY REPORT FOR MARCH 1952.
2. APPELLATE DECISIONS - MANNO AND ELFREY v. CLIFTON.
3. APPELLATE DECISIONS - HUDSON BERGEN ETC. ASS'N v. RUTHERFORD ET AL.
4. APPELLATE DECISIONS - HUDSON BERGEN ETC. ASS'N ET AL. v. JERSEY CITY ET AL.
5. DISCIPLINARY PROCEEDINGS (Westfield) - CLUB LICENSEE - SALE DURING PROHIBITED HOURS - SALE TO NON-MEMBERS - EXTENUATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
6. AUTOMATIC SUSPENSION (Morristown) - SALE TO MINORS - LICENSE PREVIOUSLY SUSPENDED BY LOCAL ISSUING AUTHORITY FOR 20 DAYS - APPLICATION TO LIFT GRANTED.
7. DISCIPLINARY PROCEEDINGS (Camden) - CHARGE OF PERMITTING LICENSED PREMISES AND BUSINESS TO BE USED IN CONNECTION WITH AN ILLEGAL ACTIVITY, IN VIOLATION OF RULE 4 OF STATE REGULATIONS NO. 20, DISMISSED FOR LACK OF PROOF.
8. MORAL TURPITUDE - MAINTAINING DISORDERLY HOUSE (PROSTITUTION).
DISQUALIFICATION - APPLICATION TO LIFT DENIED WITH LEAVE TO REAPPLY AFTER MARCH 26, 1953.
9. DISCIPLINARY PROCEEDINGS (Parsippany-Troy Hills) - SALE TO MINORS - PREVIOUS SIMILAR AND DISSIMILAR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Highlands) - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
11. DISCIPLINARY PROCEEDINGS (Atlantic City) - SALE TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
12. DISCIPLINARY PROCEEDINGS (Lambertville) - PERMITTING SLOT MACHINES ON LICENSED PREMISES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
13. STATE LICENSES - NEW APPLICATIONS FILED.

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

BULLETIN 931

APRIL 9, 1952.

<u>ACTIVITY REPORT FOR MARCH 1952</u>			
1.			
ARRESTS:			
Total number of persons arrested - - - - -		19	
Licensees and employees - - - - -	10		
Bootleggers - - - - -	9		
SEIZURES:			
Still - 50 gallons or under - - - - -		4	
Alcohol - gallons - - - - -		4.28	
Mash - gallons - - - - -		200.00	
Distilled alcoholic beverages - gallons - - - - -		.94	
Wine - gallons - - - - -		10.74	
Brewed malt alcoholic beverages - gallons - - - - -		5.74	
RETAIL LICENSEES:			
Premises inspected - - - - -		995	
Premises where alcoholic beverages were gauged - - - - -		1,014	
Bottles gauged - - - - -		16,924	
Premises where violations were found - - - - -		162	
Violations found - - - - -		188	
Type of violations found:			
Unqualified employees - - - - -	32	Probable fronts - - - - -	2
Disposal permit necessary - - - - -	4	Other mercantile business - - - - -	2
Regs. #38 sign not posted - - - - -	3	Other violations - - - - -	145
STATE LICENSEES:			
Premises inspected - - - - -		19	
License applications investigated - - - - -		15	
COMPLAINTS:			
Complaints assigned for investigation - - - - -		579	
Investigations completed - - - - -		529	
Investigations pending - - - - -		163	
LABORATORY:			
Analyses made - - - - -		124	
Refills (from licensed premises) - bottles - - - - -		5	
Bottles from unlicensed premises - - - - -		11	
IDENTIFICATION BUREAU:			
Criminal fingerprint identifications made - - - - -		31	
Persons fingerprinted for non-criminal purposes - - - - -		195	
Identification contacts made with other enforcement agencies - - - - -		193	
Motor vehicle identifications via N. J. State Police Teletype - - - - -		8	
DISCIPLINARY PROCEEDINGS:			
Cases transmitted to municipalities - - - - -		22	
Sale to minors - - - - -	17	Failure to afford view into premises, during prohibited hours - - - - -	1
Sale during prohibited hours - - - - -	2	Possessing contraceptives on premises - - - - -	1
Sale to non-members by clubs - - - - -	2	Permitting lottery activity on prem. - - - - -	1
Permitting slot machines on premises - - - - -	1	Permitting gambling on premises (cards) - - - - -	1
Cases instituted at Division - - - - -		18	
Violations involved:		Failure to file notice of change in application - - - - -	1
Sale to minors - - - - -	7	False statement in license application - - - - -	1
Sale during prohibited hours - - - - -	4	Permitting bookmaking on premises - - - - -	1
Possessing illicit liquor - - - - -	2	Permitting gambling 'prize fights' - - - - -	1
Sale to non-members by clubs - - - - -	2	Delivery without bona fide invoice - - - - -	1
Sale outside scope of license - - - - -	2	Unauthorized transportation - - - - -	1
Permitting immoral activity on premises - - - - -	1	Aiding and abetting unlicensed sale - - - - -	1
Possessing contraceptives on premises - - - - -	1	Permitting lottery activity on prem. - - - - -	1
Cases brought by municipalities on own initiative and reported to Division - - - - -		14	
Violations involved:			
Sale to minors - - - - -	11		
Sale during prohibited hours - - - - -	2		
Permitting brawl on premises - - - - -	1		
Permitting gambling on premises - - - - -	1		
Permitting bookmaking on premises - - - - -	1		
HEARINGS HELD AT DIVISION:			
Total number of hearings held - - - - -		29	
Appeals - - - - -	3	Seizures - - - - -	2
Disciplinary proceedings - - - - -	18	Tax revocation - - - - -	1
Eligibility - - - - -	4	Application for license - - - - -	1
PERMITS ISSUED:			
Total number of permits issued - - - - -		653	
Employment - - - - -	146	Social affairs - - - - -	193
Solicitors' - - - - -	81	Miscellaneous - - - - -	414
Disposal of alcoholic beverages - - - - -	89		

April 2, 1952.

EDWARD J. DORTON
 Acting Director.

2. APPELLATE DECISIONS - MANNO AND ELFREY v. CLIFTON.

CHRISTINE MANNO and CLARIBEL)
ELFREY, t/a EL ZEBRA,)

Appellants,)

-vs-

MUNICIPAL COUNCIL OF THE CITY)
OF CLIFTON,)

Respondent.)

ON APPEAL.
CONCLUSIONS AND ORDER

Samuel Heller, Esq., Attorney for Appellants.
John G. Dluhy, Esq., Attorney for Respondent.

This is an appeal from the action of respondent whereby it suspended appellants' License C-134 for a period of sixty days after it had found appellants guilty of charges alleging that they allowed, permitted or suffered female employees employed on the licensed premises to accept alcoholic beverages from customers or patrons at the expense of said customers or patrons, in violation of Rule 22 of State Regulations No. 20. The premises in question are located at 284 Lakeview Avenue, Clifton.

Upon the filing of the appeal, the Director entered an order on December 27, 1951, staying the effect of respondent's order of suspension pending entry of a further order herein.

The evidence herein discloses that two ABC agents visited appellants' premises on four occasions, namely, on the evening of August 22, 1951, and the early morning hours of August 23, 1951; on the evening of August 24, 1951; on the evening of September 7, 1951, and the early morning hours of September 8, 1951, and on the evening of September 14, 1951. Both agents testified that on each of the four visits they paid for a number of drinks of alcoholic beverages which had been ordered by, and served to, a girl identified as "Pat". They also testified that on August 24 they observed two other girls, who were identified as "Nancy" and "Lee", seated with male companions at the bar, and that they further observed that the drinks consumed by both of these girls were paid for by money taken from the bar in front of their male companions. The investigators testified that a show in which "Pat", "Nancy" and "Lee" took part was produced on appellants' premises on the evening of August 24 and again on the evening of September 14.

Claribel Elfrey, one of the appellants herein, admits that "Lee" was the producer of the show presented on the premises, and that "Pat" and "Nancy" were entertainers who took part in the show. As the witnesses testified, "Lee sold us the package." Under these circumstances, there is no doubt that the three girls were employed on appellants' premises. I have disregarded testimony referring to another girl described as "Pauline" who was on appellants' premises on August 22 because the evidence does not establish that Pauline was employed on the licensed premises at that time.

Appellants apparently do not seriously question any of the testimony given by the agents in this case. However, Christine Manno testified that she was not on the licensed premises at the time of the first three visits made by the agents, and Claribel Elfrey testified that she was not on the premises at the time of the first and third visits made by the agents. The latter testified that she instructed the girls not to drink with male patrons. The absence of a licensee from his or her premises, or the failure of an employee to follow instructions, may not be set up as an excuse when a violation occurs on licensed premises. On the evidence herein I am satisfied that appellants were guilty as charged.

The penalty in this case, although stern, was not so excessive as to be considered an abuse of respondent's discretion. This is especially true in view of the fact that the appellants have a prior record. On August 17, 1950, respondent suspended their license for ten days after finding them guilty of selling alcoholic beverages to three minors. The imposition of this suspension was subsequently affirmed upon appeal to the Superior Court, Appellate Division, and, after certification granted, the Supreme Court, on March 17, 1952, dismissed the appeal for lack of prosecution. On March 18, 1952, the respondent reimposed this ten-day suspension, effective April 7, 1952, at 7:00 a.m. The penalty herein will, therefore, commence on April 17, 1952, at 7:00 a.m., the terminal date of the prior penalty.

For the reasons aforesaid, the action of respondent is affirmed.

Accordingly, it is, on this 24th day of March, 1952,

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

ORDERED that the Order dated December 27, 1951, shall be vacated effective at 7:00 a.m. April 17, 1952, and that plenary retail consumption license C-134, issued by the Municipal Council of the City of Clifton to Christine Manno and Claribel Elfrey, t/a El Zebra, for premises 284 Lakeview Avenue, Clifton, be and the same is hereby suspended for a period of sixty (60) days, commencing at 7:00 a.m. April 17, 1952, and terminating at 7:00 a.m. June 16, 1952.

EDWARD J. DORTON
Acting Director.

3. APPELLATE DECISIONS - HUDSON BERGEN ETC. ASS'N v. RUTHERFORD ET AL.

HUDSON BERGEN COUNTY RETAIL LIQUOR)
STORES ASSOCIATION,)

Appellant,)

-vs-)

MAYOR AND BOROUGH COUNCIL OF THE)
BOROUGH OF RUTHERFORD, THE GRAND)
UNION COMPANY, and D & M GROCERS,)
INC.,)

Respondents.)

ON APPEAL
CONCLUSIONS AND ORDER

Samuel Moskowitz, Esq., Attorney for Appellant.
Kipp, Ashen & Somerville, Esqs., by Oliver T. Somerville, Esq.,
Attorneys for Mayor and Borough Council.
Milton C. Kitay, Esq., Attorney for The Grand Union Company.
James S. Ely, Esq., Attorney for D & M Grocers, Inc.

This is an appeal from the action of respondent Mayor and Borough Council whereby it granted an application to transfer plenary retail distribution license No. D-7 from D & M Grocers, Inc. to The Grand Union Company, and from premises known as 1 Morse Avenue to premises known as 16-24 Spring Dell and 19 Sylvan Street, Rutherford. D & M Grocers, Inc. is not a necessary party to this appeal.

The petition of appeal alleges that the action of respondent Mayor and Borough Council was arbitrary and unreasonable because the transfer leaves the section surrounding 1 Morse Avenue void of any license and results in an undue concentration of licenses in the section surrounding 16-24 Spring Dell and 19 Sylvan Street.

The evidence herein discloses that, prior to 1939, six plenary retail distribution licenses had been issued in the borough. In 1939 the local ordinance was amended to permit the issuance of ten licenses of this type, and one of the four additional licenses then issued was issued for a store conducted at 1 Morse Avenue. Apparently the local issuing authority, as then constituted, was satisfied that there was then a need for a license in that section, which is residential in character.

After the application for the transfer considered herein was filed, written objections to the transfer were filed by an attorney representing competing licensees. On January 23, 1952, a public hearing on said objections was held, at which said attorney appeared and presented no testimony but argued against the transfer of the license. On February 5, 1952, at a meeting of the Mayor and Borough Council, three Councilmen voted to deny the transfer, three Councilmen voted to grant the transfer, and Mayor Green cast the deciding vote in favor of the transfer. At this meeting a petition, containing about two hundred ninety names and stating that the signers opposed the transfer, was presented to the Mayor and Borough Council.

It is doubtful if the mere fact that "the transfer leaves the section surrounding 1 Morse Avenue void of any license" is a sufficient reason for setting aside the transfer. In any event, little, if any, evidence that a license is needed at the present time in that section was presented in this case. I have examined the names and addresses in the petition presented on February 5, and find that very few of the signers reside on Morse Avenue or on other streets in that section of the borough. In fact, many of the persons who signed the petition reside nearer the store to which the license was transferred. Moreover, two of the Councilmen who voted to deny did not base their vote upon the need for a license on Morse Avenue but, rather, upon their belief that the license should be surrendered if not needed at that location. However, a transfer may not be denied merely to reduce the number of licenses outstanding. Kirschhoff v. Millville et al., Bulletin 254, Item 8.

At the hearing herein, Mayor Green testified that he cast the deciding vote in favor of the transfer because "I feel that it wouldn't do any harm down there to the interest of the people of Rutherford". It is clear that the section surrounding the food market to which the license was transferred is a business section. There is testimony that at least sixty per cent. of the business of the borough is done in that section, and that thousands of people who live in other municipalities do their shopping in that section of Rutherford. It has been held repeatedly that the number of licenses which should be permitted in a business section of this character is a matter to be decided in the sound discretion of the issuing authority. Despite the fact that five licenses of a similar type are presently outstanding in this business section, I conclude that appellant has not sustained the burden of showing that the Mayor and Borough Council abused its discretionary power in granting the application to transfer the license.

For the reasons aforesaid, the action of respondent Mayor and Borough Council will be affirmed.

Accordingly, it is, on this 25th day of March, 1952,

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

EDWARD J. DORTON
Acting Director.

4. APPELLATE DECISIONS - HUDSON BERGEN ETC. ASS'N ET AL. v. JERSEY CITY ET AL.

HUDSON BERGEN COUNTY RETAIL LIQUOR)
STORES ASS'N, a New Jersey corpora-)
tion; and JERSEY CITY RETAIL LIQUOR)
DEALERS ASSOCIATION, a New Jersey)
corporation,)

Appellants,)

-vs-

ON APPEAL
CONCLUSIONS AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY OF)
JERSEY CITY, IRVING and AARON)
GREENSPAN, and GEORGE L. PARIS,)
Receiver for Empire Restaurant,)
Inc.,)

Respondents.)

-----)
Samuel Moskowitz, Esq., Attorney for Appellant Hudson Bergen County)
Retail Liquor Stores Ass'n.)
Sidney Simandl, Esq., Attorney for Appellant Jersey City Retail)
Liquor Dealers Association.)

John B. Graf, Esq., by Jacob J. Levey, Esq., Attorney for Respondent)
Municipal Board of Alcoholic Beverage Control.)
Leo Rosenblum, Esq., Attorney for Respondents Irving and Aaron)
Greenspan.)
Raymond Chasan, Esq., Attorney for Respondents Irving and Aaron)
Greenspan.)

This is an appeal from respondent Board's action in granting, on May 14, 1951, an application to transfer a plenary retail consumption license from George L. Paris, Receiver for Empire Restaurant, Inc., to Irving and Aaron Greenspan, and from premises at 754 Newark Avenue to premises at 678 Newark Avenue, Jersey City.

It is argued, for the respondents Greenspan, that appellants are without status as parties to this appeal. The argument has no merit. Hudson Bergen etc. Ass'n v. Hoboken, 135 N. J. L. 502, E.&A. 1947.

For some ten years, up to and including the license year 1949-1950, Empire Restaurant, Inc. held a plenary retail consumption license for premises consisting of the ground floor and basement (or part of the basement) at 754 Newark Avenue. On February 14, 1950, the license was extended to George L. Paris, Receiver for Empire Restaurant, Inc. At an auction held on February 16, 1950, respondents Greenspan "bought" the 1949-1950 license. This action, of course, did not transfer the license to Greenspan because only an issuing authority may transfer a license. R. S. 33:1-26.

On February 21, 1950, respondents Greenspan filed an application with the respondent Municipal Board for transfer of the 1949-1950 license to themselves and to their premises at 678 Newark Avenue. Respondent Board's files contain no record of any action on such application, but it is claimed for respondents Greenspan that they were told the application was being denied without prejudice and were advised that the Receiver should apply for a renewal (for 1950-1951) and that they might later apply for transfer of the 1950-1951 license. These things, apparently, were done. The Receiver's application for a 1950-1951 license was prompted by the request of the attorney for respondents Greenspan, and such application was not made until the Court had granted the Receiver's petition for permission to do so. Respondents Greenspan paid all fees and costs relative to such application, including even the cost of the petition to the Court.

Respondent Board granted the Receiver's application for 1950-1951 "renewal", effective July 24, 1950. However, the Receiver had long before lost all right to possession of the formerly licensed premises at 754 Newark Avenue. Respondents Greenspan attempted to prove that the owner of the building had rented to the Receiver the second floor of 754 Newark Avenue for one month from July 20, 1950, to August 20, 1950; but counsel for the Receiver testified that the Receiver had nothing to do with any such arrangement; that at no time in May, June or July of 1950 did the Receiver rent any portion of the premises at 754 Newark Avenue. In any event, the second floor of 754 Newark Avenue had never been part of the licensed premises and, therefore, assuming that the Receiver had possession of the second floor, the 1950-1951 license issued to the Receiver could not have been a renewal but could have been at best a new license (R. S. 33:1-96) issued in violation of the State Limitation Law (P.L. 1947, c. 94).

Respondents Greenspan applied for transfer of the 1950-1951 license on August 14, 1950, and that transfer (here appealed from), which was granted by respondent Board on May 14, 1951, was not certified to this Division until August 21, 1951.

The legal defects are many. The Receiver for Empire Restaurant, Inc. did not have possession of the premises formerly licensed at the time the license was purportedly renewed for the 1950-1951 licensing year. If, in fact, the Receiver did have the right of possession of the second floor, the purported renewal for the 1950-1951 licensing year must be construed as the issuance of a new license in violation of the State Limitation Law. Moreover, the transfer was granted in violation of the local ordinance hereinafter set forth.

Section 4 of Jersey City's ordinance adopted October 5, 1937, as amended by an ordinance adopted April 1, 1941, reads:

"Section 4. From and after the passage of this ordinance, no Plenary Retail Consumption License shall be granted for or transferred to any premises the entrance of which is within the area of a circle having a radius of seven hundred fifty (750) feet and having as its central point the entrance of an existing licensed premises covered by a Plenary Retail Consumption License, provided, however, that if any licensee holding a Plenary Retail Consumption License at the time of the passage of this ordinance shall be compelled to vacate the licensed premises for any reason that in the opinion of the Board of Commissioners of the City of Jersey City was not caused by any action on the part of the licensee, or if the landlord of said licensed premises shall consent to a vacation thereof, said licensee may, in the discretion of the Board of Commissioners of the City of Jersey City, be permitted to have such license transferred to another premises within a radius of five hundred (500) feet of the licensed premises so vacated. The provisions of this section relating to distances between licensed premises shall not apply to the issuance or transfer of any license to premises which will be operated by the licensee as a Bowling Academy. A premises shall be deemed to be operated as a Bowling Academy if it contains four or more pairs of bowling alleys."

Five plenary retail consumption licenses were and are located within seven hundred fifty feet of the Greenspans' premises at 678 Newark Avenue, which premises are nine hundred seventeen feet from, and hence not within a radius of five hundred feet of, the premises at 754 Newark Avenue. The transfer was clearly in violation of the ordinance, and respondent Board had no jurisdiction to grant such

transfer. The fact that respondents Greenspan conduct the only licensed Kosher restaurant in the city did not empower the Board to grant "special treatment". Respondent Board's action must be reversed. See Tube Bar, Inc. et al. v. Jersey City et al., Bulletin 808, Item 1; Tube Bar, Inc., a New Jersey Corporation, et al. v. Commuters Bar, Inc., et al., Superior Court, Appellate Division, No. A 35-51, September Term, decided March 12, 1952, and not yet officially reported.

In view of the foregoing, it is unnecessary to consider here the additional grounds for reversal urged by appellants.

The license in question has, of course, expired, and respondents Greenspan were granted a 1951-1952 renewal which must be set aside. (Rule 13, Regulations No. 15.)

Accordingly, it is, on this 26th day of March, 1952,

ORDERED that the action of respondent Board be and the same is hereby reversed; and it is further

ORDERED that Plenary Retail Consumption License C-545, issued for the present licensing year by respondent Board to respondents Irving and Aaron Greenspan as a renewal of the 1950-1951 license transferred to them on May 14, 1951, be cancelled, and that all operation thereunder cease at 2:00 a.m. April 1, 1952.

EDWARD J. DORTON
Acting Director.

5. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALE DURING PROHIBITED HOURS - SALE TO NON-MEMBERS - EXTENUATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
ECHO LAKE COUNTRY CLUB
Springfield Avenue
P.O. Box 541
Westfield, N. J.,
Holder of Club License CB-195,
issued by the Director of the
Division of Alcoholic Beverage
Control.

CONCLUSIONS
AND ORDER

Defendant-licensee, by Robert F. Darby, Secretary of and Counsel for the Club.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

Defendant has pleaded non vult to the following charges:

"1. On Sunday, March 16, 1952, between the hours of 12:01 A.M. and 1:25 A.M., being a day upon and times during which plenary retail consumption licensees in Westfield are prohibited from sale of alcoholic beverages by Section 3 of Ordinance No. 526 adopted by the Town Council of the Town of Westfield on May 27, 1935, as amended by Section 1 of Ordinance No. 540 adopted April 13, 1936, you sold and allowed, permitted and suffered the sale of alcoholic beverages upon your licensed premises, in violation of Rule 10 of State Regulations No. 7.

"2. On the date and during the times aforesaid, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to persons not bona fide members of your club or bona fide guests of such members, in violation of Rule 8 of State Regulations No. 7."

The local ordinance provides that no alcoholic beverages shall be sold on Sunday.

The file herein discloses that on Sunday, March 16, 1952, at about 12:10 a.m., two ABC agents entered the first floor of defendant's premises, which consists of a lobby, ballroom, barroom and rear sitting-room. They observed a large number of people dancing in the ballroom. Taking seats at a table in the lobby, the agents ordered from a waitress two "Scotch and sodas" which were served by the waitress. Later the agents went to a small bar which is located at the rear of the ballroom and ordered two more "Scotch and sodas" from the man who was tending bar. The bartender told the agents that he could not take money at the bar, and stated he could call one of the waitresses. Eventually, however, the bartender accepted from the agents the sum of \$1.50. Apparently the other patrons at the bar signed tabs. Shortly before 1:00 a.m. this bar closed, and an announcement was made that "the basement bar is now open". The agents proceeded to the basement bar, where they ordered two more drinks. The person who was in charge of this bar refused to accept cash from the agents, and told them that they would have to sign a tab. Thereupon one of the agents signed his name to the tab, which was placed by the bartender near the cash register. Neither of the agents was a member of the club nor a guest of any member of the club.

Defendant has no prior adjudicated record. As to the second charge, there are extenuating circumstances because the use of the tabs would indicate that the premises were not open to the general public. Under all the circumstances, I shall suspend the license for twenty days. Five days will be remitted for the plea, making a net suspension of fifteen days.

Accordingly, it is, on this 28th day of March, 1952,

ORDERED that Club License CB-195, issued by the Director of the Division of Alcoholic Beverage Control to Echo Lake Country Club, for premises on Springfield Avenue, Westfield, be and the same is hereby suspended for fifteen (15) days, commencing at 6:30 a.m. March 31, 1952, and terminating at 6:30 a.m. April 15, 1952.

EDWARD J. DORTON
Acting Director.

6. AUTOMATIC SUSPENSION - SALE TO MINORS - LICENSE PREVIOUSLY SUSPENDED BY LOCAL ISSUING AUTHORITY FOR 20 DAYS - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by)

MORRISTOWN COLONY RESTAURANT, INC.)
T/a RAY'S BAR, COCKTAIL LOUNGE &)
RESTAURANT)
175 South Street)
Morristown, N. J.,)

ON PETITION
CONCLUSIONS AND ORDER

to Lift the Automatic Suspension)
of Plenary Retail Consumption)
License C-2, issued by the Mayor)
and Board of Aldermen of the Town)
of Morristown.)

It appears from a verified petition filed herein that on February 25, 1952, Reynold Konschak, an officer, director and stockholder of the corporate licensee, pleaded non vult in the Morris County Court to two indictments alleging the sale of alcoholic beverages to minors, as a result of which he was fined \$100.00 on the first indictment (which sum he paid) and was fined the sum of \$100.00 on the second indictment (which sentence was suspended).

It appears from the records of the Division of Alcoholic Beverage Control that on February 15, 1952, Conclusions and Order were entered in an appeal case entitled Morristown Colony Restaurant, Inc. v. Morristown, wherein the action of the Mayor and Board of Aldermen of the Town of Morristown, in suspending appellant's license for a period of twenty days, was affirmed. In said Conclusions and Order it was provided that the twenty-day suspension should commence at 2:00 a.m. February 26, 1952, and terminate at 2:00 a.m. March 17, 1952. See Bulletin 927, Item 10.

The charges in the criminal proceedings and the charges in the disciplinary proceedings referred to in the appeal case cited herein were based upon the same facts.

I am satisfied that the suspension heretofore imposed was adequate under the circumstances of the case. Hence the relief sought herein will be granted at the termination of the suspension presently in effect.

Accordingly, it is, on this 12th day of March, 1952,

ORDERED that the automatic suspension of License C-2 held by Morristown Colony Restaurant, Inc., t/a Ray's Bar, Cocktail Lounge & Restaurant, for premises 175 South Street, Morristown, be lifted, and said license restored to full force and operation effective at 2:00 a.m. March 17, 1952. Until then the license stands suspended.

EDWARD J. DORTON
Acting Director.

7. DISCIPLINARY PROCEEDINGS - CHARGE OF PERMITTING LICENSED PREMISES AND BUSINESS TO BE USED IN CONNECTION WITH AN ILLEGAL ACTIVITY, IN VIOLATION OF RULE 4 OF STATE REGULATIONS NO. 20, DISMISSED FOR LACK OF PROOF.

In the Matter of Disciplinary Proceedings against THE SPORT CENTER 806-10 Market Street and 805-13 Federal Street Camden, N. J., Holder of Plenary Retail Consumption License C-193, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

CONCLUSIONS AND ORDER

William B. Knight, Esq., Attorney for Defendant-licensee. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

Defendant pleaded not guilty to the following charge:

"On April 2 and 3, 1951 you allowed, permitted and suffered your licensed premises and licensed business to be used in furtherance and aid of and in connection with an illegal activity or enterprise resulting in convictions in criminal prosecutions, in that bookmaking and gambling activity occurred in an unlicensed portion of your licensed building accessible from the licensed portion, with respect to which Edward Eder, Joseph P. Clifford and Samuel D. Bakley were convicted on November 2, 1951 in the Camden County Court, Law Division (Criminal), of crimes as follows: Edward Eder of the crime of bookmaking and maintaining a place for bookmaking, contrary to R. S. 2:135-3, Joseph P. Clifford of the crime of engaging in 'numbers' selling, contrary to R. S. 2:147-3-b, and Samuel D. Bakley of the crime of possessing 'numbers' slips, contrary to R. S. 2:147-3-b; in violation of Rule 4 of State Regulations No. 20."

There is no substantial dispute as to the facts. On April 2 and 3, 1951, two ABC agents visited the building in a portion of which the licensed premises are located. The defendant corporation leases the entire building which is a large three-story structure, with basement, running through from Federal Street to Market Street. The building has three entrances from Federal Street -- (1) an entrance to the center corridor which continues for approximately seventy-five feet and leads into a transverse corridor which intersects it at right angles; (2) to the left of said entrance, a door leading into the "Webster" Bar and Grill, and (3) to the right of said entrance, a door leading into the "Five O'clock Club". Each of the two above named establishments, licensed and operated by defendant, extends from the center corridor to the side wall of the building and from the sidewalk to the transverse corridor aforementioned, and each has a door opening upon the center corridor at a point near the transverse corridor. The transverse corridor runs the entire width of the building. In the rear wall of this transverse corridor is a door which leads to the first floor bowling alleys and to the top of a stairway leading to the basement (perpendicular to the center corridor). Beyond the transverse corridor (toward Market Street) are the first floor bowling alleys, office space and other facilities.

The licensed premises consist of the entire first floor "except the portion used for bowling and hallways" and the entire second floor "except the auditorium".

The basement, which is not part of the licensed premises, contains, among other things, bowling alleys and a soda fountain which is located at the foot of the stairway leading from the first floor. The soda fountain is operated by a concessionaire (one Bonnie Eder) who leases the equipment from the defendant.

The ABC agents testified herein that, on the two days set forth in the charge, they entered the building by way of the center corridor and proceeded to the door in the corridor wall which leads into "Webster's". After having lunch in "Webster's", they re-entered the center corridor through the same doorway, walked along the center corridor toward Market Street, turned slightly left in the transverse corridor, and entered the door which leads to the first floor bowling alleys. After bowling there (on the first day), they proceeded to the basement bowling alleys via the stairway aforementioned. At the soda fountain located at the foot of the stairway, horse-race bets were placed with Edward Eder, husband of the concessionaire, as the result of which Eder was arrested on the second day along with the two other men mentioned in the charge. Ultimately, because of their activities at this location, all three were convicted of the various gambling offenses enumerated in the charge.

The agents testified that Eder told them that he split the proceeds of his bookmaking activities "50-50" with Joseph P. Egan who is treasurer and a director of defendant corporation and the owner of one-third of its capital stock. Joseph P. Egan did not appear as a witness. However, even if Eder's statement is true, there is nothing in the case to indicate that Egan was acting on behalf of defendant corporation.

The agents also testified that one of the other men (Bakley) told them that he gave the proceeds of his numbers writing to Joseph P. Clifford, who claimed to be a part-time bartender for defendant, and he in turn gave the money to his brother John Clifford, Vice-President of the defendant corporation, a director and a stockholder thereof. Defendant's President, who was its only witness, denied that Joseph performed any services at the premises, licensed or unlicensed, until after the dates in question. I believe his testimony.

It is clear that the public had access to the basement soda fountain, where the illegal activities took place, without going upon licensed premises at all. The defendant does not dispute the fact that there is free access between the portion of the building which is licensed and the portion which is unlicensed, including the soda fountain where the illegal activity took place as alleged in the charge. There is, however, no proof that anyone other than the two agents ever went from the licensed premises to the soda fountain to place bets or play "numbers", and there is no evidence that any activity took place upon the licensed portion of the building which bore any relation to or was in any way coupled with the illegal activities which occurred on the unlicensed portion.

On the record before me I find that the Division has failed to sustain the burden of proving that defendant allowed, permitted or suffered its licensed premises or the licensed business to be used in furtherance or aid of, or in connection with, an illegal activity or enterprise.

Accordingly, it is, on this 31st day of March, 1952,

ORDERED that the charge herein be and the same is hereby dismissed.

EDWARD J. DORTON
Acting Director.

8. MORAL TURPITUDE - MAINTAINING DISORDERLY HOUSE (PROSTITUTION).

DISQUALIFICATION - APPLICATION TO LIFT DENIED WITH LEAVE TO REAPPLY AFTER MARCH 26, 1953.

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. 963.
-----)

On June 19, 1942, petitioner was fined \$2,500.00 after he had pleaded guilty in a Court of Special Sessions to a charge of maintaining a disorderly house (prostitution). Petitioner has never been convicted of any other crime.

The crime of maintaining a disorderly house per se involves moral turpitude where it appears that the premises were used for prostitution. Re Case No. 148, Bulletin 466, Item 4.

Petitioner has been continuously in the general contracting business for the past ten years.

Petitioner produced three character witnesses (a municipal court clerk and two businessmen) who testified that they have known petitioner six or more years and that he now bears a reputation of being a law-abiding person in the community in which he resides. The Police Department of the municipality in which petitioner lives has indicated that there are no complaints or investigations pending wherein petitioner is a party.

Although more than five years have elapsed since his conviction, I am not convinced at this time that petitioner's association with the alcoholic beverage industry would not be contrary to the public interest. The records of this Division show that in 1942 petitioner was an officer of a corporation which held a liquor license and operated a tavern and hotel. A raid of the licensed premises resulted in the criminal charge to which petitioner pleaded guilty. A review of the records indicates that petitioner knew, or should have known, that the premises were being used for immoral purposes. The license held by the corporation was subsequently revoked by the local issuing authority as a result of disciplinary proceedings instituted against the corporation. At the hearing herein, petitioner testified that he wants to clear his name so that he may buy another tavern. Under all the circumstances, I shall deny the present petition, but shall give petitioner leave to file a new petition after the expiration of one year from date hereof. If such petition is filed, the conduct of petitioner during the year will be considered in determining whether relief should be then granted.

Accordingly, it is, on this 26th day of March, 1952,

ORDERED that the petition for relief herein be and the same is hereby denied, with leave to file a new petition as aforesaid.

EDWARD J. DORTON
Acting Director.

9. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PREVIOUS SIMILAR AND DISSIMILAR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against WALLY'S INC. T/a WALLY'S Parsippany Blvd. just north of Intervale Road Parsippany-Troy Hills F.O. R.D. 1, Boonton, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Parsippany-Troy Hills.

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

The defendant has pleaded non vult to a charge alleging that it sold and served alcoholic beverages to two minors, in violation of Rule 1 of State Regulations No. 20.

It appears from an examination of the file in the instant case that on the evening of January 9, 1952 and early morning of January 10, 1952, an employee of defendant served alcoholic beverages to two minors, one 19 years of age and the other 20 years of age.

Defendant has a prior adjudicated record. Effective February 23, 1942, a license in the individual name of Wallace Bentley, the major stockholder of the defendant corporation, was suspended for five days by the local issuing authority for sale of alcoholic beverages to minors. Again, effective September 29, 1944, defendant's license was suspended for 15 days by the local issuing authority for permitting a brawl on its licensed premises. Inasmuch as the similar violation occurred more than ten years ago and the dissimilar violation occurred more than five years ago, I shall not consider them in aggravation of the present charge. Therefore, I shall suspend defendant's license for ten days, less five days' remission for the plea entered herein, leaving a net suspension of five days. Re Schepis, Bulletin 896, Item 6.

Accordingly, it is, on this 28th day of March, 1952,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Parsippany-Troy Hills to Wally's Inc., t/a Wally's, Parsippany Blvd. just north of Intervale Road, Parsippany-Troy Hills, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m. April 7, 1952, and terminating at 3:00 a.m. April 12, 1952.

EDWARD J. DORTON Acting Director.

10. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against TIMOTHY CORCORAN T/a HIGHLANDER HOTEL 3 Navesink Avenue Highlands, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-26, issued by the Borough Council of the Borough of Highlands.

Timothy Corcoran, Defendant-licensee, Pro Se. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

Defendant pleaded non vult to a charge alleging that he sold and served alcoholic beverages to a minor and permitted the consumption of alcoholic beverages by such minor upon the licensed premises, in violation of State Regulation.

The file discloses that early on the morning of March 1, 1952, two ABC agents observed the sale, by the licensee, of a quart bottle of beer to nineteen-year-old Charles ---. The licensee admitted to the agents that he had made the sale, but claimed that the minor had previously told him that he was over twenty-one years of age. However, in order to establish a defense under the provisions of R. S. 33:1-77, a licensee must prove, among other things, that the minor falsely misrepresented his age in writing.

The licensee has no prior adjudicated record. The minimum suspension for sale of alcoholic beverages to a nineteen-year-old minor is ten days. Five days will be remitted for the plea, leaving a net suspension of five days. Re Lippitt and Applebaum, Bulletin 923, Item 7.

Accordingly, it is, on this 14th day of March, 1952,

ORDERED that Plenary Retail Consumption License C-26, issued by the Borough Council of the Borough of Highlands to Timothy Corcoran, t/a Highlander Hotel, for premises 3 Navesink Avenue, Highlands, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. March 24, 1952, and terminating at 2:00 a.m. March 29, 1952.

EDWARD J. DORTON Acting Director.

11. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

THE CLOCK BAR AND GRILL, INC.)
T/a THE CLOCK)
19-21 South Tennessee Avenue)
Atlantic City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License No. C-125, issued by the Board of Commissioners of the City of Atlantic City.)
-----)

David R. Brone, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

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

As a result of an investigation instituted by members of the Atlantic City Police Department, two minors, namely A/A John ---, U. S. Navy, and A/A Raymond ---, U. S. Navy, gave statements to ABC agents wherein they stated that each had purchased and consumed three glasses of beer on defendant's premises, on the evening of March 6, 1952. Both minors were nineteen years of age.

Defendant has no prior record. In the absence of any aggravating circumstances, I shall suspend defendant's license for a period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Barr, Bulletin 828, Item 4.

Accordingly, it is, on this 21st day of March, 1952,

ORDERED that Plenary Retail Consumption License No. C-125, issued by the Board of Commissioners of the City of Atlantic City to The Clock Bar and Grill, Inc., t/a The Clock, for premises 19-21 South Tennessee Avenue, Atlantic City, be and the same is hereby suspended for five (5) days, commencing at 7:00 a.m. March 31, 1952, and terminating at 7:00 a.m. April 5, 1952.

EDWARD J. DORTON
Acting Director.

12. DISCIPLINARY PROCEEDINGS - PERMITTING SLOT MACHINES ON LICENSED PREMISES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

TOSCANNI POST NO. 120,)
AMERICAN LEGION)
13 North Main Street)
Lambertville, N. J.,)

CONCLUSIONS AND ORDER

Holder of Club License CB-164, issued by the Director of the Division of Alcoholic Beverage Control.)
- - - - -)

Emmett D. Topkins, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

Defendant has pleaded non vult to the following charge:

"On August 16, 1951, you possessed, allowed, permitted and suffered in and upon your licensed premises, three slot machines or devices in the nature of slot machines which might be used for the purpose of playing for money or other valuable thing; in violation of Rule 8 of State Regulations No.20."

The file herein discloses that on August 16, 1951, a Prosecutor's Detective and two members of the Lambertville Police force found three slot machines in operation on defendant's premises.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of ten days, less five days for the plea entered herein, making a net suspension of five days.

Accordingly, it is, on this 13th day of March, 1952,

ORDERED that Club License CB-164, issued by the Director of the Division of Alcoholic Beverage Control to Toscani Post No. 120, American Legion, for premises 13 North Main Street, Lambertville, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. March 24, 1952, and terminating at 2:00 a.m. March 29, 1952.

EDWARD J. DORTON
Acting Director.

13. STATE LICENSES - NEW APPLICATIONS FILED.

Alfred Renzi, t/a Hammonton Distributing Co.
96 S. White Horse Pike, Hammonton, N. J.
Application filed April 1, 1952 for transfer of State Beverage Distributor's License from Rear 209-11 East Orchard St., Hammonton, N. J.

Alfred Bischoff
Longwood Valley Rd., Oak Ridge, N. J.
Application filed April 1, 1952 for State Beverage Distributor's License.

Edward J. Dorton
Acting Director.