

26 Rose Avenue,
Madison,
Morris County, New Jersey
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

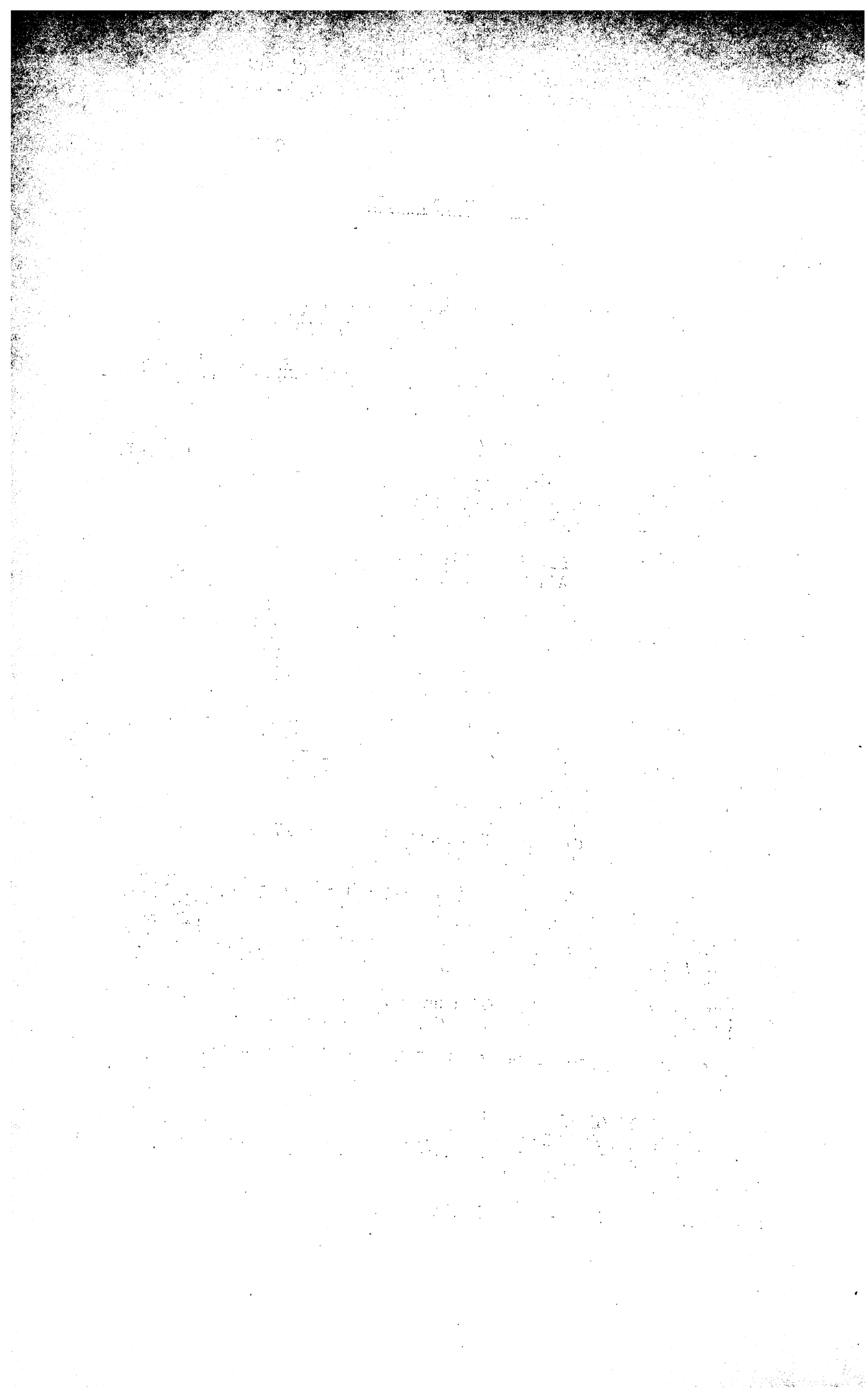
BULLETIN 886

OCTOBER 11, 1950.

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

BULLETIN 886

OCTOBER 11, 1950.

October 2, 1950

1. ACTIVITY REPORT FOR SEPTEMBER 1950.

| | | |
|--|-------|----------|
| ARRESTS: | | |
| Total number of persons arrested | ----- | 17 |
| Licenses and employees | ----- | 3 |
| Bootleggers | ----- | 14 |
| SEIZURES: | | |
| Motor vehicles - cars | ----- | 5 |
| Stills - over 50 gallons | ----- | 1 |
| Mash-gallons | ----- | 1,250.00 |
| Distilled alcoholic beverages - gallons | ----- | 111.82 |
| Wine - gallons | ----- | 25.76 |
| Brewed malt alcoholic beverages - gallons | ----- | 41.61 |
| RETAIL LICENSEES: | | |
| Premises inspected | ----- | 728 |
| Premises where alcoholic beverages were gauged | ----- | 704 |
| Bottles gauged | ----- | 12,599 |
| Premises where violations were found | ----- | 25 |
| Violations found | ----- | 24 |
| Type of violations found: | | |
| Unqualified employees | ----- | 9 |
| Gambling devices | ----- | 1 |
| Prohibited signs | ----- | 1 |
| Probable fronts | ----- | 1 |
| Improper beer taps | ----- | 1 |
| Reg. #38 sign not posted | ----- | 1 |
| Other mercantile business | ----- | 1 |
| Disposal permit necessary | ----- | 1 |
| Other violations | ----- | 8 |
| STATE LICENSEES: | | |
| Premises inspected | ----- | 10 |
| License applications investigated | ----- | 9 |
| COMPLAINTS: | | |
| Complaints assigned for investigation | ----- | 319 |
| Investigations completed | ----- | 362 |
| Investigations pending | ----- | 106 |
| LABORATORY: | | |
| Analyses made | ----- | 145 |
| "Shake-up" cases (alcohol, water and artificial color) - bottles | ----- | 9 |
| Liquor found to be not genuine as labeled - bottles | ----- | 6 |
| IDENTIFICATION BUREAU: | | |
| Criminal fingerprint identifications made | ----- | 15 |
| Persons fingerprinted for non-criminal purposes | ----- | 176 |
| Identification contacts made with other enforcement agencies | ----- | 151 |
| Motor vehicle identifications via N. J. State Police Teletype | ----- | 2 |
| DISCIPLINARY PROCEEDINGS: | | |
| Cases transmitted to municipalities | ----- | 17 |
| Violations involved: | | |
| Sale to minors | ----- | 6 |
| Sale to non-members by clubs | ----- | 4 |
| Permitting brawls on premises | ----- | 3 |
| Sale during prohibited hours | ----- | 3 |
| Permitting bookmaking on premises | ----- | 1 |
| Cases instituted at Division | ----- | 15 |
| Violations involved: | | |
| Permitting immoral activity on premises | ----- | 4 |
| Possessing illicit liquor | ----- | 3 |
| Fraud and front | ----- | 4 |
| Delivery without bona fide invoices | ----- | 2 |
| Mislabeling beer taps | ----- | 2 |
| Possessing contraceptives on premises | ----- | 2 |
| Permitting hostesses on premises | ----- | 1 |
| Sale outside scope of license | ----- | 1 |
| Failure to display license certificate | ----- | 1 |
| Permitting pin ball machines on premises | ----- | 1 |
| Peddling alcoholic beverages from vehicle | ----- | 1 |
| Sale during prohibited hours | ----- | 1 |
| Cases brought by municipalities on own initiative and reported to Division | ----- | 7 |
| Violations involved: | | |
| Permitting brawls on premises | ----- | 4 |
| Hindering investigation | ----- | 2 |
| Permitting bookmaking on premises | ----- | 2 |
| Sale to minors | ----- | 1 |
| Sale during prohibited hours | ----- | 1 |
| HEARINGS HELD AT DIVISION: | | |
| Total number of hearings held | ----- | 27 |
| Appeals | ----- | 4 |
| Disciplinary proceedings | ----- | 7 |
| Eligibility | ----- | 5 |
| Seizures | ----- | 9 |
| Tax revocation | ----- | 1 |
| Applications for license | ----- | 1 |
| PERMITS ISSUED: | | |
| Total number of permits issued | ----- | 961 |
| Employment | ----- | 149 |
| Solicitors | ----- | 77 |
| Disposal of alcoholic beverages | ----- | 156 |
| Social affairs | ----- | 372 |
| Special wine | ----- | 77 |
| Miscellaneous | ----- | 130 |

ERWIN B. HOCK, DIRECTOR

2. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION v. ELIZABETH AND MILLER AND COOPERSTEIN.

UNION COUNTY RETAIL LIQUOR STORES)
ASSOCIATION,)

Appellant,)

-vs-)

ON APPEAL
CONCLUSIONS AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY OF)
ELIZABETH, and FREDERICK MILLER,)
t/a MILLER'S AUDITORIUM, and)
RUBIN COOPERSTEIN,)

Respondents.)

-----)
Julius R. Pollatschek, Esq., Attorney for Appellant.
Raymond A. Leahy, Esq., Attorney for Respondent Municipal Board.
Archibald Wacker, Esq., Attorney for Respondent Frederick Miller.
H. Harding Brown, Esq., Attorney for Respondent Rubin Cooperstein.

BY THE DIRECTOR:

This is an appeal from the action of respondent Municipal Board whereby it transferred Plenary Retail Consumption License No. C-254, with broad package privileges, from respondent Frederick Miller, t/a Miller's Auditorium, to respondent Rubin Cooperstein, and from 9 East Scott Place to 1121 Elizabeth Avenue, Elizabeth.

The petition of appeal alleges that the action of respondent Board was erroneous for the following reasons:

- "a. The application did not comply with Rule 2 of State Regulation 32.
- "b. Chapter 98 of P.L. 1948 which created the so called 'broad package privilege' established two types of uses thereof, namely, the sale of alcoholic beverages in original containers to the exclusion of sale for consumption on the licensed premises, and the sale of original containers from a portion of the licensed premises other than the public bar room. In the instant case, the licensee Miller conducted both a bar room and a so called package department in a portion of the licensed premises other than a public bar room. Under these circumstances, the creation now of an exclusive package store violates terms of the statute. The original licensee having elected under the statute to have both a bar room and a package department, in that situation upon the transfer of the licensed premises compliance with the statute requires a portion of the premises to be used as a bar room.
- "c. Subsequent to the grant to the licensee Miller, of broad package privileges, said licensee abandoned the use thereof and thus is not entitled to the protection afforded by Chapter 98 and P.L. 1948 and State Regulation 32.
- "d. The Applicant, Ruben Cooperstein, did not establish any need for any additional package stores in the vicinity of the proposed licensed premises. The public necessity and convenience is presently adequately served by existing licensees in the vicinity.
- "e. The action of the respondent board was unjust, arbitrary, capricious."

The testimony herein discloses that respondent Frederick Miller held a plenary retail consumption license for many years for the premises known as 9 East Scott Place. Effective July 1, 1948, the "broad package privilege" was endorsed upon his license certificate after he had complied with Rules 2 and 4 of State Regulations No. 32 adopted pursuant to Chapter 98, P.L. 1948. Thereafter Miller did very little business under his license, apparently because the building at 9 East Scott Place had been sold to the City of Elizabeth for the expansion of the Thomas Jefferson High School and the licensee was anticipating a notice to vacate, which was recently served upon him. Respondent Miller duly obtained renewals of his license, with broad package privileges, for the licensing years beginning July 1, 1949, and July 1, 1950. The transfer from person to person and place to place was granted at a meeting of the Municipal Board held on July 26, 1950.

As to "a": In the prescribed form of application for retail license (other than club license), Item 6 calls for a description of premises to be licensed and, in "(b)" of Item 6: "For what purpose used." Rule 2 of State Regulations No. 32 called for an amendment of the application for the then current (1948-1949) license of a retail consumption licensee seeking the "broad package privilege" under P.L. 1948, c. 98, such amendment to be in Item 6(b) of such application and to set forth that "Alcoholic beverages were sold on May 27, 1948 in original containers for off-premises consumption from portion of licensed premises other than public barroom as designated on sketch attached...". In its last sentence, Rule 2 of State Regulations No. 32 states: "Subsequent applications for license, including applications for transfer of license from person to person or place to place, shall be similarly answered where appropriate."

In his application for transfer, respondent Cooperstein set forth under Item 6(b) that the purposes for which the premises were to be used included "broad package privilege pursuant to P.L. 1948, ch. 98 and State Regulations No. 32". I find that the answer in the transfer application substantially and sufficiently satisfied the requirements of Rule 2 of State Regulations No. 32 and that the petition's ground "a" is without merit.

As to "b": Pursuant to the proviso in Section 1 of P.L. 1948, c. 98, where, prior to May 28, 1948, a retail consumption licensee sold and displayed for sale alcoholic beverages in original containers for consumption off the licensed premises either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display are permitted "as heretofore" and notwithstanding renewal or transfer of the license either from person to person or place to place.

Prior to the enactment of P.L. 1948, c. 98, a plenary retail consumption license entitled the holder to sell alcoholic beverages in original containers for off-premises consumption and to sell by the glass or other open receptacle for on-premises consumption. The plenary retail consumption licensee could do one or the other or both. (South Jersey Retail Liquor Dealers Association v. Burnett, 125 N.J.L. 105; Sup. Ct. 1940.) As I interpret the proviso in Section 1 of P.L. 1948, c. 98, the words "as heretofore" do not relate to any delimitation with respect to a distinction between an exclusive package store operation on the one hand or a "combination" operation on the other, or to the prior extent of the package store operation, but relate, instead and without distinction, to continuation of the prior "double" privilege held by a plenary retail

consumption licensee under R.S. 33:1-12(1) -- the privilege of conducting, under his license, bar and package store businesses in combination, or either of such businesses. Thus, I find that the petition's ground "b" is without merit.

I cannot find merit in the petition's ground "c" since P. L. 1948, c. 98, in no way indicates or requires that a licensee's exercise of the "broad package" privilege must be continuous.

It appears that the premises at 1121 Elizabeth Avenue are approximately five hundred feet from the premises at 9 East Scott Place and in the same section of the city. Under the circumstances here present, it is not deemed that the transfer aggravated to any appreciable degree the number of licenses or package stores in the area, or that appellant has sustained the burden of proving that respondent Board's action should be reversed on the ground that no public need existed for the license at the Elizabeth Avenue premises to which transfer was granted. (See Costa v. Verona, Bulletin 501, Item 2; Metropolitan Liquor Corporation v. Jersey City, Bulletin 645, Item 1; Leonia Liquors, Inc. v. Leonia, Bulletin 766, Item 1.) I do not find cause for reversal in the petition's ground "d".

There is nothing in the evidence presented on this appeal to indicate or lead me to believe that respondent Board's action was unjust, arbitrary or capricious. The petition's ground "e", therefore, cannot be found to have merit.

Respondent Board's action will be affirmed.

Accordingly, it is, on this 28th day of September, 1950,

ORDERED that the action of respondent Municipal Board of Alcoholic Beverage Control of the City of Elizabeth, in transferring Plenary Retail Consumption License C-254, with broad package privileges, from Frederick Miller, t/a Miller's Auditorium, to Rubin Cooperstein, and from 9 East Scott Place to 1121 Elizabeth Avenue, Elizabeth, be and the same is hereby affirmed.

ERWIN B. HOCK
Director.

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (STRIP TEASE DANCE - INDECENT SONGS) - HOSTESSES - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against)

TROPICAL ROOM, INC.)
27 Church Street)
Paterson 1, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-126, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)

Samuel M. Weissman, 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 charges alleging (1) that it allowed, permitted and suffered lewd, indecent and immoral activity (a strip tease dance and sexually suggestive songs) by its female employees, in violation of Rule 5 of State Regulations No. 20; and (2) permitted four named female employees to accept beverages as gifts from customers, in violation of Rule 22 of State Regulations No. 20.

On August 19, 1950, investigators witnessed a "floor show" on defendant's licensed premises. One of the features of the show was a "strip tease" dance in the usual burlesque tradition, complete with "bumps" and "grinds" and ultimately the appearance of practically complete nudity, performed by one of defendant's female entertainers. Another female employee sang sexually suggestive songs.

Such actions and such suggestive songs have no place on licensed premises.

It is clear that beverages were purchased by and at the expense of male customers for many of the entertainers, who were thus acting as "hostesses" in its most improper connotation.

Under all the circumstances, including the plea entered herein, I shall suspend the license for sixty days.

Accordingly, it is, on this 4th day of October, 1950,

ORDERED that Plenary Retail Consumption License C-126, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Tropical Room, Inc., for premises 27 Church Street, Paterson, be and the same is hereby suspended for sixty (60) days, commencing at 3:00 a.m. October 9, 1950, and terminating at 3:00 a.m. December 8, 1950.

ERWIN B. HOCK
Director.

4. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN LICENSE APPLICATION - AIDING AND ABETTING NON-LICENSEE (DISQUALIFIED FROM HOLDING A LICENSE PRIOR TO ENACTMENT OF P.L. 1941, CH. 97) TO EXERCISE THE RIGHTS AND PRIVILEGES OF LICENSE - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR 45 DAYS.

In the Matter of Disciplinary Proceedings against)

EVA LOTCPEICH)
T/a SOMERSET HOTEL)
100 Somerset Street)
Garfield, N. J.,)

Holder of Plenary Retail Consumption License C-52 for the 1949-50 and 1950-51 licensing years, issued by the City Council of the City of Garfield, and transferred during the pendency of these proceedings to)

CONCLUSIONS AND ORDER

KARL and EVA LOTCPEICH,)

for the same premises.)

Emil J. Sadloch, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging (1) that she falsified her application filed to secure her 1949-50 license by concealing the interest of Karl Lotcpeich in said license, in violation of R.S. 33:1-25; and (2) from October 19, 1944, she aided and abetted Karl Lotcpeich to exercise the rights of her successive plenary retail consumption licenses, in violation of R.S. 33:1-52.

In October 1944 a license, then held by Somerset Hotel Company, was transferred to defendant. It is admitted that Karl and Eva Lotcpeich since that time have been partners in the operation of the licensed business. Apparently all parties connected with this license are and at least since October 1944 have been fully qualified to hold the license under the statute, R.S. 33:1-25.

On August 1, 1950 the current license was transferred by the local issuing authority from Eva Lotcpeich to Karl and Eva Lotcpeich, subject to the outcome of these proceedings, thus correcting the illegal situation.

Karl Lotcpeich formerly, and before June 30, 1941, held a liquor license for the premises covered by the current license. During the period in which the license was so held by him, he had a record of prior violations; i.e., 1935 -- a 30-day suspension by the local issuing authority for possession of illicit liquor; in 1941 -- a 45-day suspension by the local issuing authority for violation of local regulations prohibiting hostess activity in the city; and again in 1941, while the aforesaid suspension was in effect, his license was suspended for 40 days by the then Acting Commissioner of Alcoholic Beverage Control, again on a charge of possession of illicit liquor. Re Lotcpeich, Bulletin 443, Item 11.

As a result of the above mentioned violations Karl Lotcpeich, under the law then in effect, was statutorily disqualified from holding or having any interest in a liquor license until the enactment of Chapter 97 of the Laws of 1941 on April 30, 1941, which terminated

this disqualification. However, despite the termination of his statutory disqualification, Karl Lotcpeich admittedly held an undisclosed interest in the license of his wife and in the business conducted thereunder from October 1944 until August 1, 1950 when the situation was corrected by transfer of the license by the local issuing authority from Eva Lotcpeich to Karl and Eva Lotcpeich, subject to the outcome of these proceedings.

Thus, even though Karl Lotcpeich has not been disqualified since October 1944, the failure to disclose his interest in the license and the business conducted thereunder prevented the local issuing authority from considering a prior record of violations in determining whether or not Karl Lotcpeich was personally fit to hold or have an interest in such license.

Under these circumstances, I believe the failure to disclose Karl Lotcpeich's interest constituted aggravation and I shall, therefore, suspend the license for a period of forty-five days.

The renewal and transfer of the license herein do not effect an abatement of these proceedings and the same remain fully effective against the license now held by Karl and Eva Lotcpeich, in accordance with the terms of the transfer and State Regulations No. 16.

Accordingly, it is, on this 3rd day of October, 1950,

ORDERED that Plenary Retail Consumption License C-52 for the 1950-51 licensing year, issued by the City Council of the City of Garfield to Karl and Eva Lotcpeich, for premises 100 Somerset Street, Garfield, be and the same is hereby suspended for a period of forty-five (45) days, commencing at 4:00 a.m. October 13, 1950, and terminating at 4:00 a.m. November 27, 1950.

ERWIN B. HOCK
Director.

- 5. DISCIPLINARY PROCEEDINGS - TRANSPORTATION OF ALCOHOLIC BEVERAGES IN VIOLATION OF RULE 3 OF STATE REGULATIONS NO. 17 - ACCEPTANCE OF ORDERS AT OTHER THAN LICENSED PREMISES IN VIOLATION OS R.S. 33:1-2 - PERMITTING PERSON WHO DID NOT HOLD SOLICITOR'S PERMIT TO OFFER ALCOHOLIC BEVERAGES FOR SALE IN VIOLATION OF RULE 6 OF STATE REGULATIONS NO. 14 - FAILURE TO FILE QUESTIONNAIRE FOR EMPLOYEE IN VIOLATION OF RULE 4 OF STATE REGULATIONS NO. 12 - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

UNION BEVERAGES, INC.)
 S/W Corner Union Ave & John St.)
 Linden, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of State Beverage Distribu-)
 tor's License SBD-116, issued by the)
 Director of the Division of Alcoholic)
 Beverage Control.)

-----)

Leo J. Berg, Esq., Attorney for Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

The defendant pleaded non vult to charges alleging that (1) it delivered alcoholic beverages in its licensed vehicle without the driver having in his possession bona fide invoices or manifests, in violation of Rule 3 of State Regulations No. 17; (2) it accepted orders for alcoholic beverages at premises other than its licensed premises, in violation of R.S. 33:1-2; (3) it permitted a person who did not hold a required solicitor's permit to offer alcoholic beverages for sale on its behalf, in violation of Rule 6 of State Regulations No. 14; and (4) it failed to notify this Division of its employment of one John H. Hendershot and also to file his questionnaire within ten days after such employment, in violation of Rule 4 of State Regulations No. 12.

The file in the instant case discloses that on May 11, 1950, after a delivery truck of defendant-licensee was stopped by ABC agents, the driver thereof was found to have an improper loading list in his possession and also incomplete route cards. The route cards disclosed the addresses of the customers but failed to disclose the names thereof. The driver, upon being questioned, acknowledged to the ABC agents that he does not make entries on the route cards at the time of delivery to customers relative to (a) the date of delivery, (b) the quantity delivered, (c) size of container delivered, (d) brand delivered and (e) price charged. The driver stated that he merely makes out a sales ticket to cover each delivery and upon his return to defendant's premises at the close of the day, the sales tickets and route cards are left in defendant's office. This procedure is a violation of Rule 3 of State Regulations No. 17. See also Bulletin 845, Item 6.

On May 11, 1950, pursuant to a telephone call on the day previous to the home of John H. Hendershot, an employee of defendant, and as a result of an order placed personally with the said John H. Hendershot, a delivery of alcoholic beverages was made in a truck owned by defendant to a designated address. It thus appears that the order was accepted at a place other than defendant's licensed premises. It also appears from the file herein that, although John H. Hendershot had been employed by defendant on April 22, 1950, defendant had failed to notify this Division that he had become associated with its alcoholic beverage business as a delivery driver.

Defendant has no previous adjudicated record. Under all of the circumstances, I shall suspend its license for a period of twenty-five days. Five days will be remitted because of the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 26th day of September, 1950,

ORDERED that State Beverage Distributor's License SBD-116, issued by the Director of the Division of Alcoholic Beverage Control to Union Beverages, Inc., for premises s/w Corner Union Ave. & John Street, Linden, be and the same is hereby suspended for a period of twenty (20) days, commencing at 7:00 a.m. October 4, 1950, and terminating at 7:00 a.m. October 24, 1950.

ERWIN B. HOCK
Director.

- 6. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - FALSE ANSWERS IN APPLICATION FOR LICENSE - FAILURE TO COMPLY WITH PROVISIONS OF R.S. 33:1-34 - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF A LICENSE - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against)

SOCIETA TRIPOLI ITALIANA)
157 Verona Avenue)
Newark 4, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License CB-38 for)
the 1949-50 and 1950-51 licensing)
years, issued by the Municipal)
Board of Alcoholic Beverage)
Control of the City of Newark.)

John A. Marzulli, Esq., Attorney for defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging in substance that: (1) it falsified its license application dated May 31, 1949 by failing to disclose the interest of one Iginio Gregorio in the license sought by said application; (2) it further falsified its said application by failing to show that it had, in effect, leased or farmed out its license to said Iginio Gregorio, each in violation of R.S. 33:1-25; (3) it failed to notify the Municipal Board of Alcoholic Beverage Control of the City of Newark that after March 1, 1950 one Michele Bordone succeeded to the interest of the said Iginio Gregorio in its said license, in violation of R.S. 33:1-34; and (4) from April 22, 1943 until June 1950, it aided and abetted Iginio Gregorio and Michele Bordone, either or both, to exercise the rights of its successive club licenses, in violation of R.S. 33:1-52.

On March 1, 1950, defendant entered into an agreement with one Michele Bordone wherein and whereby the said Michele Bordone agreed to "take charge of the (defendant's) bar and clubroom" and receive for his said services the "profits derived from the bar after deducting costs of merchandise and all other running expenses of the clubroom, such as, rent, fuel, gas and electricity, breakage, etc."

After this investigation was started, and on or about June 14, 1950, the agreement was cancelled by written consent of the parties thereto and the operation of the club's license was provided for by hiring a manager at \$10.00 per week and two bartenders at the wage of \$45.00 per week, each, and placing all receipts from the bar in the club's bank account.

An agreement similar to the one entered into between defendant and Bordone existed between the defendant and Igino Gregorio from April 1943 until March 1, 1950.

It is clear that this farming out or leasing of the privileges of a liquor license is illegal. Re Stetz, Bulletin 512, Item 3.

Apparently the illegal situation arose out of an attempt by the club to secure the advantages of a license without assuming the responsibility of operating at a loss and without any inquiry as to the legality of the arrangement. Defendant secured its liquor license in 1935 and apparently operated properly until April 1943.

Although this proceeding was instituted during the 1949-50 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1950-51. State Regulations No. 16.

It appearing from the testimony that the illegal situation has been corrected and defendant having no other adjudicated record, I shall suspend the license for the minimum period of twenty days. Re Spring Lake Real Estate Company, Bulletin 824, Item 2.

Accordingly, it is, on this 20th day of September, 1950,

ORDERED that Club License CB-38 issued for the 1950-51 licensing period by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Societa Tripoli Italiana, for premises 157 Verona Avenue, Newark, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. September 27, 1950, and terminating at 2:00 a.m. October 17, 1950.

ERWIN B. HOCK
Director.

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

In the Matter of Disciplinary Proceedings against

JACK'S STAR BAR, INC.
24 Tichenor Street
Newark 5, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-143, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Jack's Star Bar, Inc., by Jack Gottlaub, Secretary-Treasurer.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that, in violation of Rule 27 of State Regulations No. 20, it possessed one 4/5 quart bottle labeled "Bottled in Bond Old Overholt Straight Rye Whiskey", which bottle bore a label which did not truly describe its contents.

On August 23, 1950, an investigator of the Division of Alcoholic Beverage Control tested twenty-six open bottles of alcoholic beverages and seized the bottle mentioned in the charge when his preliminary test indicated that the contents thereof appeared to be too low in proof. Subsequent analysis by the Division's chemist disclosed that the contents of the seized bottle varied substantially in solids and proof from the contents of a genuine bottle of the same product.

The secretary-treasurer of the corporate licensee denied that he had any knowledge that anyone tampered with the contents of the seized bottle. Nevertheless, a licensee is responsible for any "refills" found in its stock of liquor.

Defendant has no prior adjudicated record. I shall suspend its license for a period of fifteen days, less five days for the plea, leaving a net suspension of ten days. See Bulletin 883, Item 11.

Accordingly, it is, on this 6th day of October, 1950,

ORDERED that Plenary Retail Consumption License C-143, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Jack's Star Bar, Inc., for premises 24 Tichenor Street, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. October 16, 1950, and terminating at 2:00 a.m. October 26, 1950.

ERWIN B. HOCK
Director.

8. DISCIPLINARY PROCEEDINGS - MISLABELED BEER TAPS - FAILURE TO DISPLAY LICENSE CERTIFICATE IN VIOLATION OF RULE 16 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA - SUBSEQUENT ORDER TO BE ENTERED FIXING EFFECTIVE DATE OF SUSPENSION WHEN SEASONAL LICENSE RENEWED.

In the Matter of Disciplinary Proceedings against)

STRATFORD INN, a Corp.)
T/a STRATFORD INN)
2nd & Garfield Aves.)
Avon-by-the-Sea, N. J.,)

CONCLUSIONS AND ORDER

Holder of Seasonal Retail Consumption License CS-3, issued by the Board of Commissioners of the Borough of Avon-by-the-Sea.)
-----)

Defendant-licensee, by Edward Gately, President.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that (1) it permitted two taps to be connected with barrels of malt alcoholic beverages, which taps did not bear markers truly indicating the name or brand of the manufacturer of such alcoholic beverages, in violation of Rule 26 of State Regulations No. 20, and (2) it failed to display its license certificate in such plain view as to be easily read by all persons visiting its licensed premises; such failure being in violation of Rule 16 of State Regulations No. 20.

On August 8, 1950, an ABC agent visited defendant's premises and found that two half-barrels labeled "Piel's" beer were connected with taps, one of which was labeled "Blatz" and the other of which contained no brand name. The license certificate was behind the cash register and in such position that it could not be read by persons visiting the licensed premises.

Defendant has no prior adjudicated record. Under the circumstances, I shall suspend defendant's license for a period of ten days because of the violations set forth in charges (1) and (2), and shall remit five days for the plea, leaving a net suspension of five days.

Defendant holds a seasonal retail consumption license which will expire on November 1, 1950. I am advised that it has closed its licensed premises and that it will not reopen for business prior to the termination of its present license. Thus, no effective penalty can be imposed at the present time. Cf. Bulletin 853, Item 11.

Accordingly, it is, on this 26th day of September, 1950,

ORDERED that Seasonal Retail Consumption License CS-3, issued by the Board of Commissioners of the Borough of Avon-by-the-Sea to Stratford Inn, a Corp., t/a Stratford Inn, for premises at 2nd & Garfield Avenues, Avon-by-the-Sea, or any license issued in renewal thereof, be and the same is hereby suspended for a period of five days. Further order fixing the period of suspension will be entered if and when the defendant, or any other person, resumes business after obtaining a renewal of said seasonal retail consumption license for the period commencing May 1, 1951.

ERWIN B. HOCK
Director.

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

In the Matter of Disciplinary Proceedings against)

JOHN FERNANDES)
T/a SCANDIA HOUSE)
438 North Avenue)
Garwood, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Mayor and Council of the Borough of Garwood.)
-----)

John Fernandes, Defendant-licensee, Pro Se.
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 permitted a tap to be connected with a barrel of malt alcoholic beverages, which tap did not bear a marker truly indicating the name or brand of the manufacturer of such malt alcoholic beverages, in violation of Rule 26 of State Regulations No. 20.

On August 29, 1950, an ABC agent who visited defendant's premises found that a barrel of Ruppert's beer was connected with a tap labeled "Rheingold". At that time the licensee told the agent that he had forgotten to change the tap, although he had been reminded to do so by the driver who delivered the Ruppert beer. It appears that the delivery was made about three hours before the agent visited defendant's premises.

Defendant has no prior record. Since no aggravating circumstances appear, I shall suspend defendant's license for a period of three days, less one day's remission for the plea, or a net suspension of two days.

Accordingly, it is, on this 25th day of September, 1950,

ORDERED that Plenary Retail Consumption License C-9, issued by the Mayor and Council of the Borough of Garwood to John Fernandes, t/a Scandia House, for premises 438 North Avenue, Garwood, be and the same is hereby suspended for two (2) days, commencing at 2:00 a.m. October 2, 1950, and terminating at 2:00 a.m. October 4, 1950.

ERWIN B. HOCK
Director.

10. DISQUALIFICATION - PREVIOUS PETITION DENIED - APPLICATION HEREIN 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. 869.)
- - - - -)

BY THE DIRECTOR:

By Order dated November 4, 1946, it was determined that petitioner had been convicted of a crime involving moral turpitude and that he was not at that time eligible under the provisions of R. S. 33:1-31.2 for the removal of his resulting disqualification. Re Bulletin 736, Item 11.

It appears that petitioner's latest conviction occurred on June 19, 1945, when he was sentenced to serve six months in a county jail and to pay a fine of \$200.00, after he pleaded non vult to a charge of receiving stolen goods. The prison sentence was suspended and petitioner was placed on probation for three years. It further appears that he, by necessity, ceased to have any interest in the liquor business at or shortly before June 30, 1945. He is presently employed as a truck driver (his employer is not licensed in this state under the Alcoholic Beverage Law) and as a part-time bartender in a neighboring state.

Petitioner produced three witnesses, all residents of his home city. They have known him for from ten to twelve years. They testify that petitioner bears a good reputation in his home community, that he is honest and law-abiding, and that they know of no reason why he should any longer be kept out of the liquor business in this state.

I am advised by the Police Department of petitioner's home community that there is "no criminal action pending against him at the present time".

I find that petitioner has been honest and law-abiding for at least 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 27th day of September, 1950,

ORDERED that petitioner's statutory disqualification because of the convictions of crimes described in Bulletin 736, Item 11, be and the same is hereby removed, in accordance with the provisions of R.S. 33:1-31.2.

ERWIN B. HOCK
Director.

11. LIMITATION OF NUMBER OF LICENSES - PETITION FOR DETERMINATION UNDER SECTION 6, CH. 94, P.L. 1947, THAT FAILURE TO APPLY FOR RENEWAL WAS DUE TO CIRCUMSTANCES BEYOND CONTROL OF LICENSEE - PETITION GRANTED.

In the Matter of an Application)
by)

NATHAN N. RAFF)
35 Weequahic Avenue)
Newark, N. J.,)

ON PETITION
DETERMINATION

For Relief under the Provisions)
of Sec. 6 of Ch. 94 of the Laws)
of 1947 (R.S. 33:1-12.18).)

-----)
H. W. Doremus, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

The verified petition herein recites that Nathan N. Raff was the holder of Plenary Retail Consumption License No. C-979 for the 1949-50 licensing year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark for premises 781 North 6th Street, Newark, and transferred by said Board on June 13, 1950, to premises 118-130 Stockton Street, Newark, subject to completion of the new premises in accordance with plans and specifications filed with and approved by the Municipal Board.

The petition further recites that on June 28, 1950, the said Municipal Board granted to petitioner a renewal of said license for the 1950-51 licensing year for premises to be erected at 118-130 Stockton Street, Newark.

The petition further recites that on July 26, 1950, said Municipal Board passed a resolution amending the resolution of June 13, 1950, to provide that "the indicated transfer is authorized effective as of June 30th, 1950, for the sole purpose of permitting a renewal" and also provided "the renewal shall not be actually issued unless and until the proposed new premises are first completed in accordance with plans and specifications filed with and approved by the Municipal Board".

The petition further recites that petitioner terminated his use and occupancy of the premises at 781 North 6th Street, Newark, as of June 30, 1950, in reliance upon the actions of said Board in transferring and renewing the license and, therefore, did not make application for renewal of his license at 781 North 6th Street, Newark.

The records of the Division of Alcoholic Beverage Control disclose that on September 14, 1950, the actions of respondent Board in granting transfer of the 1949-50 license and granting conditional renewal for 1950-51 were reversed and set aside for failure to comply with the terms of an ordinance of the City of Newark which required that notice of the application for transfer should be given at least five days prior to the newspaper publication of the second notice of application to property owners within two hundred feet of the premises to be licensed. Port of New York Authority v. Newark and Raff, Bulletin 885, Item 2.

The petition further recites that on September 18, 1950, petitioner filed an application with the Municipal Board of Alcoholic Beverage Control of the City of Newark for a new plenary retail consumption license for premises under construction at 118-130 Stockton Street, Newark.

The granting of a new plenary retail consumption license in the City of Newark is prohibited by Sec. 2, Ch. 94, P.L. 1947, unless relief is granted under Sec. 6 thereof, and such granting is prohibited by the city's 1938 Ordinance No. 2419, as amended, unless relief is granted under the city's supplementary 1949 Ordinance No. 726. Petitioner herein requests me to determine, in writing, pursuant to Sec. 6, Ch. 94, P.L. 1947, that his failure to apply for renewal was due to circumstances beyond his control.

There may be room for doubt on the proposition that petitioner held a 1949-1950 license for premises at 781 North 6th Street. However, whether the general merits of the relief sought relate to failure to apply for a renewal for the North 6th Street premises or to failure to apply for a legally effective renewal for premises at 118-130 Stockton Street, it is my belief that petitioner, under all the facts and circumstances, qualifies for relief within the whole meaning, intendment and purpose of Sec. 6, Ch. 94, P. L. 1947.

Accordingly, I hereby DETERMINE that petitioner's failure to apply for renewal was due to circumstances beyond his control. The application for new license for premises being erected at 118-130 Stockton Street, Newark, was filed within sixty days after the expiration of the license renewal period.

In view of my determination under Sec. 6, Ch. 94, P.L. 1947, the Municipal Board of Alcoholic Beverage Control of the City of Newark will, if it adopts the required resolution under Ordinance No. 726, have authority (pursuant to R.S. 33:1-19) to grant the petitioner's application for a new license despite the limitation set forth in Sec. 2, Ch. 94, P.L. 1947.

The determination herein does not mean that the application must be granted. The determination to grant or deny a retail license application rests, in the first instance, with the municipal issuing authority (R.S. 33:1-19), and a municipal issuing authority's action granting or denying such application is appealable to the State Director pursuant to R.S. 33:1-22.

ERWIN B. HOCK
Director.

Dated: September 25, 1950.

12. STATE LICENSES - NEW APPLICATIONS FILED:

Maresca Beverage Co., Inc.
514 Central Avenue and 269 Cambridge Avenue, Jersey City, N. J.
Application filed September 19, 1950 for transfer of State Beverage Distributor's License SBD-171 from James C. Maresca, t/a Maresca Beverage Distributing Company.

Joseph Woznica & Emily Woznica, t/a Park Beverages
15-17 Hackensack Avenue, Ridgely Park, N. J.
Application filed September 27, 1950 for State Beverage Distributor's License.

Commercial Solvents Corporation
800-840 Edgar Road, Linden, N. J.
Application filed October 6, 1950 for Public Warehouse License.

Erwin B. Hock