

STATE OF NEW JERSEY  
 Department of Law and Public Safety--  
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
 1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1302

OCTOBER 13, 1959

TABLE OF CONTENTS

ITEM

1. COURT DECISIONS - RAHWAY v. WITTY'S LIQUORS, INC. AND DIVISION OF ALCOHOLIC BEVERAGE CONTROL; DECKER ET AL. v. WITTY'S LIQUORS, INC. - DIRECTOR SUSTAINED.
2. APPELLATE DECISIONS - ESSEX COUNTY RETAIL LIQUOR STORES ASSN. ET AL. v. NEWARK AND PERE, INC.
3. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1958 TO JUNE 30, 1959 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19.
4. DISCIPLINARY PROCEEDINGS (Passaic) - CONDUCTING BUSINESS AS NUISANCE - CONTRACEPTIVES - LOTTERY - LICENSE SUSPENDED FOR 70 DAYS, LESS 5 FOR PLEA.
5. LICENSED PREMISES - ENTERTAINMENT - BEAUTY CONTESTS DISAPPROVED.
6. MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.
7. DISCIPLINARY PROCEEDINGS (Jersey City) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Barnegat Light) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Branchburg Township) - ACCEPTING ORDERS AT PLACE OTHER THAN LICENSED PREMISES - TRANSPORTATION WITHOUT INVOICE OR MANIFEST - TRANSPORTATION IN UNLICENSED VEHICLE - SALE AT LESS THAN MINIMUM CONSUMER RESALE PRICE - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Keansburg) - GAMBLING - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
11. AUTOMATIC SUSPENSION (New Brunswick) - EFFECT OF SUSPENSION STAYED PENDING ACTION OF LOCAL ISSUING AUTHORITY IN DISCIPLINARY PROCEEDINGS.

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1302

OCTOBER 13, 1959

1. COURT DECISIONS - RAHWAY v. WITTY'S LIQUORS, INC. AND DIVISION OF ALCOHOLIC BEVERAGE CONTROL; DECKER ET AL. v. WITTY'S LIQUORS, INC. - DIRECTOR SUSTAINED.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
A-330-58, A-357-58

MUNICIPAL BOARD OF ALCOHOLIC  
BEVERAGE CONTROL OF THE CITY OF  
RAHWAY,

Appellant,

vs.

WITTY'S LIQUORS, INC. and DIVISION  
OF ALCOHOLIC BEVERAGE CONTROL,  
STATE OF NEW JERSEY,

Respondents,

-----  
MARY DECKER, RAYMOND PREVAY AND  
GEORGE WEAVER,

Appellants,

vs.

WITTY'S LIQUORS, INC.,

Respondent.  
-----

Argued September 21, 1959--Decided October 1, 1959

Before Judges Conford, Foley and Scherer

Mr. James F. Patten argued the cause for appellant,  
Municipal Board of Alcoholic Beverage Control of  
the City of Rahway.

Mr. Sidney M. Schreiber argued the cause for appellants,  
Mary Decker, et als. (Mr. Bernard P. Escandon, attorney).

Mr. Samuel B. Helfand, Deputy Attorney General, argued  
the cause for respondent, Division of Alcoholic Beverage  
Control, State of New Jersey (Mr. David D. Furman,  
Attorney General, attorney).

Mr. Robert N. Wilentz argued the cause for respondent  
Witty's Liquors, Inc. (Messrs. Wilentz, Goldman, Spitzer  
& Sills, attorneys).

PER CURIAM

The subject matter of this litigation is an application by  
respondent, Witty's Liquors, Inc., for the transfer to itself of  
a plenary retail liquor consumption license, and of the site for

exercise thereof from 1332 Main Street, in the downtown business section of Rahway, to 453 St. George Avenue, a heavily traversed and commercially zoned thoroughfare of that municipality, also designated as State Highway 27. The local municipal control board denied the application, N.J.S.A. 33:1-26, but its action was reversed on appeal as "arbitrary and unreasonable" by the State Director of Alcoholic Beverage Control, on recommendation of the hearing officer, N.J.S.A. 33:1-38.

Testimony was taken before each of the administrative agencies. The primary subject of our judicial review is the action of the Director, not that of the local board. We recently had occasion to summarize the cases formulating the rule of judicial review where the Director overrules the action of the local agency by saying: "The cases indicate that while the local issuing authority is vested with discretion in the exercise of any statutory jurisdiction committed to it, nevertheless, when the Division determines on appeal that that discretion has been exercised improperly or mistakenly and the court is reviewing the Division's determination, the inquiry becomes one as to whether it can be said that the [state] director's action was a manifestly mistaken exercise of his own sound discretion." Belmar v. Div. of Alcoholic Beverage Control, 50 N.J. Super. 423, 426 (App. Div. 1958). The Director has an expertise in this general field which must be given due weight in evaluating the reasonableness of his discretionary determination that the action of the local authorities was unjustifiable. See Belmar v. Div. of Alcoholic Beverage Control, supra (50 N.J. Super., at p. 426). The transcript of testimony before the local board and the stated reasons for its conclusion are properly given consideration in making the judicial determination as to the justification for the Director's decision in respect to the local action, but the correctness of his determination is primarily to be adjudged upon the basis of the record made in his department.

Applying these principles, we find the Director's decision unexceptionable. We find it unnecessary to recount the testimony in detail. The determination of the local board was purportedly based upon considerations relating to the effect of a grant of the transfer upon highway traffic and nearby residential areas, the sufficiency of parking facilities at the proposed site, the adequacy for the area of other licensed facilities, and the character of the principal officer of the applicant. Our careful inspection of the record of the hearings before both agencies in all relevant respects leads us to conclude that the determination of the Director was not, on an overall basis, vulnerable under the controlling principles of review mentioned above.

Affirmed.

2. APPELLATE DECISIONS - ESSEX COUNTY RETAIL LIQUOR STORES ASSN. ET AL. v. NEWARK AND PERE, INC.

ESSEX COUNTY RETAIL LIQUOR STORES )  
ASSOCIATION, AND LYON LIQUOR )  
STORE, )

Appellants, )

v. )

ON APPEAL  
CONCLUSIONS  
AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY OF )  
NEWARK, AND PERE, INC., A CORP., )

Respondents. )

-----  
Leonard Brass, Esq., Attorney for Appellants.  
Vincent P. Torppey, Esq., by James E. Abrams, Esq., attorney  
for Respondent Municipal Board.  
Kasen, Schnitzer & Kasen, Esqs., by Daniel G. Kasen, Esq.,  
Attorneys for Respondent Pere, Inc.

BY THE DIRECTOR

The Hearer has filed the following Report herein:

"This is an appeal from the place-to-place transfer of respondent-licensee's plenary retail consumption license from 405 Seventh Avenue to 138 Roseville Avenue and 405 Seventh Avenue, Newark.

"After the hearing was completed before the respondent Board on April 21, 1959, the Chairman announced that the decision would be reserved for one week. At the April 28 meeting the Secretary of respondent Board stated that the Board had met in executive session on April 21 and unanimously approved the transfer in question.

"Appellants allege in their petition of appeal that the action of the respondent Board was erroneous for the following reasons:

'Applicant alleges that the decision to divide license No. C-730, which is a broad package privilege license, so that a tavern is at 405 Seventh Avenue, and a package goods store is at 138 Roseville Avenue, both in the City of Newark, County of Essex and State of New Jersey, was unlawful, illegal, arbitrary, capricious and a direct abuse of the discretionary powers of the Municipal Board.

'Appellant further alleges that this decision was contrary to the laws of the State of New Jersey and in effect, this license has now been divided so that there are two separate premises on separate streets, one a package goods store, and one a tavern, under the same license.

'Appellant alleges that under the broad package powers the package goods department must be adjoining to the tavern part of the premises and that the entrances to the package goods store and the tavern must be adjoining.

'Appellant alleges that it was not the purpose of the broad package privilege and the original Act, to permit a license to have a package goods department on a separate street and, as in this instance, over a hundred feet from the original site of the tavern entrance to the end that the public is given the impression that there are two separate establishments, not connected and not the same licensed premises.

'Appellant further alleges that the broad package privilege is a special privilege and must be rigidly complied with; if in fact such privilege exists under R.S. 33:1-12.'

"The record herein discloses that prior to April 21 the respondent-licensee (hereinafter referred to as the licensee) was the holder of a plenary retail consumption license with 'broad package privileges', which license covered a portion of the ground floor and basement of a building located on the northwest corner of Roseville Avenue and Seventh Avenue. The entrance thereto was on Seventh Avenue. It appears that the licensee acquired the right of possession of a vacant store having an entrance on Roseville Avenue. The rear part of said store was contiguous to a portion of the rear part of the licensee's premises. Plans were filed specifying certain alterations to make it accessible for persons to go from the Roseville Avenue section of the licensed premises to the Seventh Avenue section and vice versa. The licensee made known its intention to use said newly acquired store for display purposes and for the sale of alcoholic beverages in original containers for off-premises consumption. Prior to May 28, 1948 (the effective date of P.L. 1948, c. 98 -- now R.S. 33:1-12.23) and the promulgation of regulation No. 32, retail consumption licenses were permitted to arrange their licensed premises as they saw fit and to sell alcoholic beverages in original containers for off-premises consumption from any part of the licensed premises. Re Lee, Bulletin 232, Item 8. R.S. 33:1-12.23 provided that where, prior to May 28, 1948, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of a plenary retail consumption license upon a portion of the licensed premises other than the public barroom, such sale and display shall, subject to rules and regulations, 'be permitted as heretofore.' It follows from the language of the statute that, where a plenary retail consumption licensee has obtained broad package privileges (as the licensee in the present case admittedly has), he may sell alcoholic beverages in original containers for off-premises consumption from any part of the licensed premises as he was permitted to do prior to the date upon which R.S. 33:1-12.23 became effective.

"It is well established that an extension of the license to cover adjacent premises, or an addition to existing premises, even though an additional entrance is provided thereby, does not require a new license if the old premises and the addition thereto constitute a single place of business. New Jersey Licensed Beverage Assn. et al. v. Camden et al., Bulletin 215, Item 5; Garrigues v. Wildwood et al., Bulletin 731, Item 8.

"In the opinion of the members of the respondent Board the addition to the original premises did not require a new license as the old premises and the addition thereto constituted a single place of business. The Director's function in appeals is, not to substitute his opinion for that of the issuing authority but, rather, to determine whether reasonable grounds support its decision and, if so, to affirm.

"The appellants have not presented anything to indicate that the action taken by the respondent Board in approving the application for transfer to include the additional premises was in anywise unlawful, arbitrary, capricious or an abuse of discretion.

"I have carefully considered the various objections to the the transfer advanced by the appellants herein, but find nothing therein sufficient to warrant a reversal of the decision of the respondent Board. I, therefore, recommend that the action of the respondent Board be affirmed and that the appeal filed herein be dismissed."

Written exceptions to the Hearer's Report and written argument in substantiation thereof were filed with me by the attorney for the appellants, pursuant to Rule 14 of State Regulation No. 15.

A person unfamiliar with our retail license pattern would naturally assume that a retail consumption license is one permitting sale and service of alcoholic beverages only by the drink for on-premises consumption. Such a person, upon viewing the premises here in question, would be curious and surprised to see in those retail consumption licensed premises a large package store room. Readily understandable as such curiosity and surprise may be, it clearly appears that the place-to-place (extension) transfer of this Broad Package Privilege license was lawful within the provisions of R.S. 33:1-12, Paragraph 1, and R.S. 33:1-12.23. The single remaining question, therefore, is whether the premises, as extended, constitute one "specific place of business" under R.S. 33:1-26, Paragraph 1. In many situations the question has been, and will hereafter be, a difficult one. Certainly, a municipal issuing authority confronted with an application for an extension-of-premises transfer should look most carefully into the physical and structural set-up, and should deny the transfer if there is not bona fide free public access between the licensed premises and the additional premises sought to be licensed. It plainly appears that in the instant case such free public access is afforded.

I have carefully examined all of the evidence presented herein and concur in the Hearer's findings and conclusions, and I shall adopt his recommendation.

Accordingly, it is, on this 3rd day of September, 1959,

ORDERED that the action of respondent Board be and the same is hereby affirmed, and the appeal be and the same is hereby dismissed.

WILLIAM HOWE DAVIS  
DIRECTOR

3. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1958 TO JUNE 30, 1959 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club	Limited Retail Distribution		Seasonal Retail Consumption		Number Surrendered Revoked Expired	Number Licenses in Effect	Total Fees Paid	
	No. Issued	Fees Paid	No. Issued	Fees Paid		No. Issued	Fees Paid	No. Issued	Fees Paid				No. Issued
Atlantic	487	\$ 208,450.41	72	\$ 27,625.00	25	\$ 2,345.00					584	\$ 238,420.41	
Bergen	811	307,734.04	301	87,988.00	113	10,525.48	53	\$ 2,496.50	10	\$ 2,743.29	5	1283	411,487.31
Burlington	187	81,380.55	40	12,225.00	46	6,372.60	1	50.00				274	100,028.15
Camden	453	224,175.31	82	33,925.00	75	7,457.54			2	750.00	1	611	266,307.85
Cape May	135	76,800.00	11	4,900.00	16	1,950.00						162	82,750.00
Cumberland	80	40,875.00	14	3,700.00	30	4,060.00						124	48,635.00
Essex	1347	759,351.10	350	209,718.90	106	14,350.12	28	1,400.00	3	2,250.00	3	1831	987,070.12
Gloucester	108	38,595.00	15	3,920.00	22	1,950.00						145	44,465.00
Hudson	1539	697,784.25	298	122,400.00	84	9,658.21	63	2,700.00			2	1982	832,542.46
Hunterdon	79	28,000.00	11	3,441.10	10	1,100.00						100	32,541.10
Mercer	423	258,573.15	51	21,400.00	58	7,925.12			1	391.63	3	530	288,289.90
Middlesex	632	312,437.19	79	24,838.85	100	8,690.89	4	200.00			1	814	346,166.93
Monmouth	552	287,768.24	122	43,620.00	44	4,950.00	10	435.00	52	23,957.98	26	754	360,731.22
Morris	358	131,991.20	99	32,925.14	55	4,847.13	19	950.00	9	2,400.00	6	534	173,113.47
Ocean	193	109,867.00	47	19,680.00	26	2,628.83						266	132,175.83
Passaic	869	357,105.36	167	51,330.00	44	5,098.89	9	425.00			1	1088	413,959.25
Salem	51	19,300.00	8	1,550.00	20	1,658.76						79	22,508.76
Somerset	187	85,700.00	41	12,595.00	28	3,190.55						256	101,485.55
Sussex	166	46,155.00	21	4,185.00	9	545.00	1	50.00	2	450.00	1	198	51,385.00
Union	550	306,316.10	144	66,860.00	78	9,033.49	28	1,375.00			2	798	383,584.59
Warren	148	44,070.00	21	5,094.85	28	3,100.00			4	656.58	2	199	52,921.43
Total	9355	\$4,422,428.90	1994	\$793,021.84	1017	\$111,437.61	216	\$10,081.50	83	\$ 33,599.48	53	12612	\$5,370,569.33

William Howe Davis  
Director

October 1, 1959

4. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AS NUISANCE - CONTRACEPTIVES - LOTTERY - LICENSE SUSPENDED FOR 70 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

KATHERINE SENFT )  
t/a PRESIDENT TAVERN )  
82 President Street )  
Passaic, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-156, issued by the Board of Commissioners of the City of Passaic. )

-----  
Morris B. Ploshnick, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On May 9, 15, 27, 29 and June 3, 1959, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises and your licensed premises to be conducted in such manner as to become a nuisance in that you, through a person employed on your licensed premises and acting as bartender thereon, made offers to procure females for male patrons for purpose of illicit sexual intercourse and acts of perverted sexual relations; allowed, permitted and suffered foul, filthy and obscene language and conduct in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.
- "2. On June 3, 1959 and prior thereto, you possessed prophylactics against venereal disease and contraceptives and contraceptive devices, in and upon your licensed premises; in violation of Rule 9 of State Regulation No. 20.
- "3. On May 29, 1959, you possessed and allowed, permitted and suffered the sale and distribution and possessed for the purpose of sale or distribution prophylactics against venereal disease and contraceptives and contraceptive devices, in and upon your licensed premises; in violation of Rule 9 of State Regulation No. 20.
- "4. On June 3, 1959 and prior thereto, you possessed, had custody of and allowed, permitted and suffered tickets and participation rights in a lottery, viz., a drawing, in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

On Saturday, May 9, 1959 at about 9:55 p.m., ABC agents R and S arrived at defendant's licensed premises to investigate a specific complaint that the defendant's bartender (Emil Wos) was soliciting male patrons for a prostitute. The agents took seats at the bar and engaged the bartender in conversation. At about

10:45 p.m., Agent S, acting on the specific complaint, inquired of Wos whether any females were available for sexual relations and acts of perversion at a reasonable price. Wos stated he had many girls whose price is \$5.00 and suggested that the agents return next Friday night at which time he would introduce them to a female for the stated purpose and counselled them not to pay her more than \$5.00. The agents agreed to return on Friday at 9:30 p.m. and departed from the premises. In the course of their conversations, Wos engaged in obscene and filthy language.

On Friday, May 15, 1959 at about 9:25 p.m., Agents R and S returned to the licensed premises. Agent R asked Wos if he had procured the female as promised on their previous visit. Wos stated that she was hospitalized; that he had made an unsuccessful effort to find a substitute and that he would telephone another female in Paterson. At about 9:45 p.m., Wos entered the telephone booth, returned in a few minutes and informed the agents that this female was not available tonight. Upon inquiry by Agent S, Wos stated the name of the female in the hospital was Phyllis and that she was 27 years of age. During this visit Wos again used vile language; gave an indecent exhibition simulating sexual intercourse and made disgusting and vulgar uses of a piece of salami which provoked laughter from the patrons. At about 10:30 p.m., Agent R asked Wos when Phyllis would be available for sexual intercourse and Wos suggested that the agents call him for this information the following Wednesday after 8:00 p.m. The agents left the premises about 10:55 p.m.

On Wednesday, May 20, 1959 at about 10:30 p.m., Agent R telephoned Wos who told him to call back the following Wednesday after 8:00 p.m. since Phyllis was still confined to the hospital.

On Wednesday, May 27, 1959 at about 9:15 p.m., Agents R and S returned to the licensed premises, took seats at the bar and inquired of Wos about Phyllis. Wos stated that she has been released from the hospital and that she has resumed her illicit activities. Wos then said that Phyllis has reduced the frequency of her visits to the licensed premises and that she now comes to the same by appointment only. The agents asked Wos whether he could make an appointment for them with Phyllis and Wos assured them that he could arrange one for next Friday night and suggested that the agents call him Thursday night for a definite answer. On their previous visits to the licensed premises, the agents had observed some patrons playing the shuffle alley, following which some of them wrote their names on slips of paper and handed the same to Wos. On this visit each of the agents followed the same procedure and were informed by Wos that in depositing their slips of paper with him they were participating in a drawing for a clock. The agents left the premises at about 10:25 p.m.

On Friday, May 29, 1959 at about 9:10 p.m., Agents R and S returned to the licensed premises and asked Wos whether he had been in touch with Phyllis. Wos replied that he had telephoned her three times without success and that he would call her again in about a half hour. In the interim, at about 10:40 p.m., the agents observed Wos take a pack of contraceptives from underneath the back bar and hand them to a patron, following which each agent made a similar purchase from Wos. At about 10:50 p.m., Wos, after a second trip to the telephone booth, informed the agents that he had spoken to Phyllis and that she was unavailable tonight because of a prior engagement. The agents then asked Wos to arrange to have Phyllis at the premises next Wednesday night at 9:30 at which time they stated that they would return to the premises to meet her. The agents departed the premises at about 11:10 p.m.

In furtherance of the investigation, Agents R and S returned to the licensed premises on June 5, 1959 at about 9:25 p.m. Agent R greeted Wos and inquired for Phyllis. Wos replied that she promised to be here and that he expected her in five minutes. Wos then related to the agents that last Saturday five men had engaged in acts of sexual perversion with some females in a room adjoining the licensed premises. At about 10:20 p.m., Wos informed your agents that he had just called Phyllis; that he had spoken with her sister who informed him that Phyllis was not at home and that she (Phyllis) had an appointment at the licensed premises tonight at 9:30. At about 10:40 p.m., Wos again went to the telephone booth and upon his return therefrom, stated to the agents that he had made two calls in an effort to locate Phyllis but could not find her. At 10:55 p.m., Agents R and S identified themselves to Wos and made a search of the licensed premises. The agents found two cigar boxes, one of which contained 39 contraceptives and the other 108 slips of paper bearing names of patrons who were participating in a drawing for a clock. Upon questioning, Wos admitted he had made unsuccessful efforts to procure a prostitute to engage in sexual relations with the agents; that he had sold contraceptives to patrons and to the agents, and that he was operating a raffle. By way of mitigation, the licensee submitted a statement setting forth therein that she was unaware of the unlawful activities of her bartender, Emil Wos, on the licensed premises. The licensee, however, cannot escape the consequences of the aforementioned acts of her agents or employee. Rule 33 of State Regulation No. 20.

Defendant has no prior adjudicated record. Considering the four charges herein, I shall suspend defendant's license for a period of seventy days. Cf. Re Pone, Bulletin 963, Item 2 and Re Klipfel's Tavern, Inc., Bulletin 1290, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of sixty-five days.

Accordingly, it is, on this 3rd day of September 1959,

ORDERED that Plenary Retail Consumption License C-156, issued by the Board of Commissioners of the City of Passaic to Katherine Senft, t/a President Tavern, for premises 82 President Street, Passaic, be and the same is hereby suspended for sixty-five (65) days, commencing at 3:00 a.m., Monday, September 14, 1959 and terminating at 3:00 a.m., Wednesday, November 18, 1959.

WILLIAM HOWE DAVIS  
DIRECTOR

5. LICENSED PREMISES - ENTERTAINMENT - BEAUTY CONTESTS DISAPPROVED.

September 29, 1959

Mrs. Dorothy Jones  
East Orange, N. J.

This is with further reference to your telegram of September 25th and your undated letter received in this office on September 29th, requesting permission to run a weekly beauty contest at the Hour Glass tavern with a final contest at the Terrace Ballroom where Miss Hour Glass 1960 will be chosen and awarded certain prizes.

We have been permitting bona fide talent or so-called "Amateur Nights" at taverns under the conditions specified in Re: Bieler, Bulletin 767, Item 14. Entertainment of song and dance is a traditional part of a tavern business.

But as for beauty contests, that is quite a different matter. All things wisely considered, I do not believe that a tavern is a proper place or milieu for any beauty contest no matter under whose auspices held.

It is clear that beauty contests with their undue appeal for the young to enter therein and also with their inevitable emphasis upon the aspects of dress or undress would open the door to undesirable problems at taverns. From the viewpoint of sound liquor control I therefore disapprove of any beauty contest at any tavern in this State.

If any promotional activity is presently being engaged in it must cease at once and any promotional advertising already accomplished must be rescinded.

Very truly yours,

WILLIAM HOWE DAVIS  
DIRECTOR

6. MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.

September 3, 1959

Re: Eligibility No. 687

Applicant seeks a determination as to whether or not he is eligible to hold a liquor license or to be employed on licensed premises in this State because of his conviction of crime.

Applicant's fingerprint returns disclose that in 1949 he was convicted in a municipal court of the crime of possessing lottery slips and was fined \$125; that on October 19, 1956 he pleaded non vult to two counts in an indictment charging him with (1) bookmaking, in violation of N.J.S. 2A:112-3, and (2) conducting a lottery, in violation of N.J.S. 2A:121-1(d); that on January 11, 1957 he was sentenced on the first count to a term of one to three years in State Prison; that the operation of that sentence was suspended and he was placed on probation for five years and fined \$2500, and that he received a suspended sentence on the second count.

In an affidavit executed by applicant on July 17, 1959, he states that he has never been convicted of any other crime and has had no other difficulty with the law; that his conviction in 1949 resulted from his possession of slips on which were recorded numbers bets he was playing; that his conviction in 1956 resulted from his activity in accepting over the phone in his own home horse race bets for a bookmaker who paid him a weekly salary of \$100 and that the \$2500 he was fined was paid by the same bookmaker. He states further that he desires to have his eligibility determined so that he may engage in business with his brother who holds a liquor license in this State.

The crime of commercialized gambling may or may not involve the element of moral turpitude, depending upon the circumstances. Re Case No. 1018, Bulletin 956, Item 7. Where one is a principal or "lieutenant" in commercialized gambling, particularly where the gambling is conducted on a large scale, it has consistently been held that such gambling involves the element of moral turpitude. Re Case No. 635, Bulletin 946, Item 10.

Considering the substantial weekly salary allegedly received by applicant for his services, the severe prison sentence meted out



Defendant has no prior adjudicated record. I shall suspend defendant's license for forty days, the minimum period where eleven or twelve bottles are involved. Cf. Re Piechota, Bulletin 1298, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 3rd day of September, 1959,

ORDERED that Plenary Retail Consumption License C-282, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Stroz, Inc., t/a Zicky's Tavern, for premises 163 Pacific Avenue, Jersey City, be and the same is hereby suspended for thirty-five (35) days, commencing at 2 a.m. Monday, September 14, 1959, and terminating at 2 a.m. Monday, October 19, 1959.

WILLIAM HOWE DAVIS  
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	)	
	)	
ADAM KUBELCZIKAS AND HELEN KUBELCZIKAS s/e corner 7th & Bayview Avenue Barnegat Light, N. J.	)	CONCLUSIONS AND ORDER
	)	
Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Barnegat Light.	)	

-----  
Julius Robinson, Esq., Attorney for Defendant-licensees.  
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they possessed on their licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On June 6, 1959, an ABC agent tested defendants' open bottles of alcoholic beverages and seized two bottles which appeared to be off in proof and color. The evidence in the file, including the analysis of the Division's chemist, discloses that both bottles had been refilled.

Defendants have a prior record. Effective September 5, 1951, their license was suspended by the Director for fifteen days for sales to minors and employing a non-resident without permit. See Bulletin 916, Item 5. Since the prior dissimilar violations occurred more than five years ago, they will not be considered in fixing penalty herein. Re Schmoldt, Bulletin 1294, Item 6. I shall suspend defendants' license for fifteen days (the minimum period where two bottles are involved). Re Boczar, Bulletin 1287, Item 10. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 3rd day of September, 1959,

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Barnegat Light to Adam Kubelczikas and Helen Kubelczikas, for premises at s/e corner 7th & Bayview Ave., Barnegat Light, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Friday, September 11, 1959, and terminating at 2 a.m. Monday, September 21, 1959.

WILLIAM HOWE DAVIS  
DIRECTOR

NOTE: On September 9, 1959, an Order was entered herein commencing the suspension at 2 a.m. Monday, September 14, 1959 and terminating the suspension at 2 a.m. Thursday, September 24, 1959.

9. DISCIPLINARY PROCEEDINGS - ACCEPTING ORDERS AT PLACE OTHER THAN LICENSED PREMISES - TRANSPORTATION WITHOUT INVOICE OR MANIFEST - TRANSPORTATION IN UNLICENSED VEHICLE - SALE AT LESS THAN MINIMUM CONSUMER RESALE PRICE - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

STEPHEN DANYLUK  
t/a TEX'S LIQUOR STORE  
ROUTE #202  
Branchburg  
PO RD 4, Somerville, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Township Committee of the Township of Branchburg. )

-----  
Michael W. Berdinella, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On divers days during the month of June 1959 and prior thereto, you sold alcoholic beverages not pursuant to and within the terms of your plenary retail distribution license, as defined by R.S. 33:1-12(3)a, contrary to R.S. 33:1-26 and R.S. 33:1-1(w), in that you accepted orders for and sold numerous bottles and cases of various brands and kinds of alcoholic beverages at a place other than your licensed premises, viz., in and about premises of Carpenter Steel Co., Springfield Road, Union, New Jersey; in violation of R.S. 33:1-2.
- "2. On divers days during the month of June 1959 and prior thereto, you delivered and transported alcoholic beverages in a vehicle without the driver thereof having in his possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill or similar document stating the bona fide name and address of the purchaser or consignee and the brand, size of

container and quantity of each item of the alcoholic beverages being so delivered and transported; in violation of Rule 5 of State Regulation No. 17.

- "3. On divers days during the month of June 1959 and prior thereto, you transported alcoholic beverages in a vehicle having no transit insignia affixed thereto or inscription painted thereon, as provided by Rule 12 of State Regulation No. 17; in violation of Rule 2 of State Regulation No. 17.
- "4. On divers days during the month of June 1959 and prior thereto, you sold and offered for sale, at retail directly or indirectly, numerous bottles and cases of various brands and kinds of alcoholic beverages at less than the prices thereof filed with the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30."

The facts constituting the basis of the charges filed herein are sufficiently set forth in the charges to obviate the necessity of repetition. As to Charge 4, the licensee admitted that during June 1959 and prior thereto he had made a practice of selling alcoholic beverages to his fellow employees at the Carpenter Steel Company for approximately 10% less, whether by case or bottle, than the permitted minimum consumer resale price.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days on Charges 1, 2 and 3 (Re Kaczyckij, Bulletin 1116, Item 11) and for an additional ten days on Charge 4 (Re Foti, Bulletin 1284, Item 6), making a total suspension of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 8th day of September, 1959,

ORDERED that Plenary Retail Distribution License D-1, issued by the Township Committee of the Township of Branchburg to Stephen Danyluk, t/a Tex's Liquor Store, for premises Route #202, Branchburg, be and the same is hereby suspended for twenty-five (25) days, commencing at 9:00 a.m., Monday, September 14, 1959, and terminating at 9:00 a.m., Friday, October 9, 1959.

WILLIAM HOWE DAVIS  
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - GAMBLING - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

MAPLEWOOD HOTEL, INC. )  
t/a MAPLEWOOD HOTEL )  
88 Maplewood Avenue )  
Keansburg, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-20, issued by the Borough Council of the Borough of Keansburg. )

-----  
Defendant-licensee, by Charles Napp, Jr., President.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On July 23 and 24, 1959, you allowed, permitted and suffered gambling in and upon your licensed premises; viz., the making and accepting of horse race bets; in violation of Rule 7 of State Regulation No. 20."

ABC agents at defendant's licensed premises on two visits in July prior to July 23, 1959, observed evidence which tended to indicate that horse race bets were placed on the licensed premises, in which Charles Napp, Jr., President and majority stockholder of the corporate-licensee participated. On July 23rd an ABC agent at the premises placed a horse race bet with Napp, who was acting as bartender. The agent observed Napp accept horse race bets from other customers. On July 24th the agent again placed two horse race bets with Napp, and observed other persons placing similar bets with Napp.

Another ABC agent and a local police officer entered the premises and the agent revealed his identity to Napp, who upon request, produced from his person various horse race betting slips and \$11, which included bills previously identified by serial number, which the agent had used to place the bets.

Defendant has a prior adjudicated record. Effective January 31, 1955 its license was suspended for twelve days by the local issuing authority for an "hours" violation. The minimum penalty imposed for a violation of this nature, where the licensee or his employees are involved, is a suspension of the license for twenty-five days (Re Titone, Bulletin 1293, Item 2), to which will be added five days for the dissimilar violation which occurred within the past five years, making a total suspension of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 9th day of September 1959,

ORDERED that Plenary Retail Consumption License C-20, issued by the Borough Council of the Borough of Keansburg to Maplewood Hotel, Inc., t/a Maplewood Hotel, for premises at 88 Maplewood Avenue, Keansburg, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m., Monday, September 21, 1959 and terminating at 2:00 a.m., Friday, October 16, 1959.

WILLIAM HOWE DAVIS  
DIRECTOR

11. AUTOMATIC SUSPENSION - EFFECT OF SUSPENSION STAYED PENDING ACTION OF LOCAL ISSUING AUTHORITY IN DISCIPLINARY PROCEEDINGS.

Auto. Susp. #174- )  
 In the Matter of a Petition to )  
 Lift Automatic Suspension of )  
 License C-53, issued by the )  
 Board of Commissioners of the )  
 City of New Brunswick to )  
 )  
 PHILIP & AMIL MAROON )  
 t/a Sandford Tavern )  
 252 Commercial Avenue )  
 New Brunswick, N. J. )

ON PETITION ORDER

-----  
Morris Spritzer, Esq., Attorney for Petitioners.

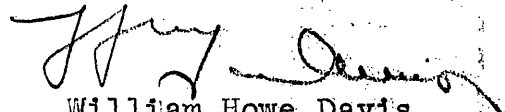
BY THE DIRECTOR:

From the records of the Division it appears that on September 21, 1959, Philip Maroon (one of the licensees herein) was fined the sum of \$300 and costs after being adjudged guilty in a Municipal Court of the City of New Brunswick on charges alleging that he sold alcoholic beverages to minors in violation of R.S. 33:1-77 and served a woman directly over the bar in violation of a local ordinance. The conviction for violating R.S. 33:1-77 resulted in the automatic suspension of the license held by Philip & Amil Maroon. R.S. 33:1-31.1. The attorney for Philip Maroon has advised me by telegram that he intends to appeal from the conviction in the Magistrate's Court and requests a stay of the automatic suspension. Disciplinary proceedings have not yet been instituted against the licensees because of the alleged sale of alcoholic beverages to minors. For the foregoing reasons the license has not yet been picked up.

A supplemental petition to lift the automatic suspension may be filed with me by petitioners after the disciplinary proceedings which are to be instituted herein have been decided. In fairness to petitioners I conclude that at this time the effect of the automatic suspension should be temporarily stayed. Re Faessler, Bulletin 920, Item 15.

Accordingly, it is, on this 21st day of September, 1959,

ORDERED that the aforesaid automatic suspension be stayed pending the further entry of an order herein.

  
 William Howe Davis  
 Director

New Jersey State Library