

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

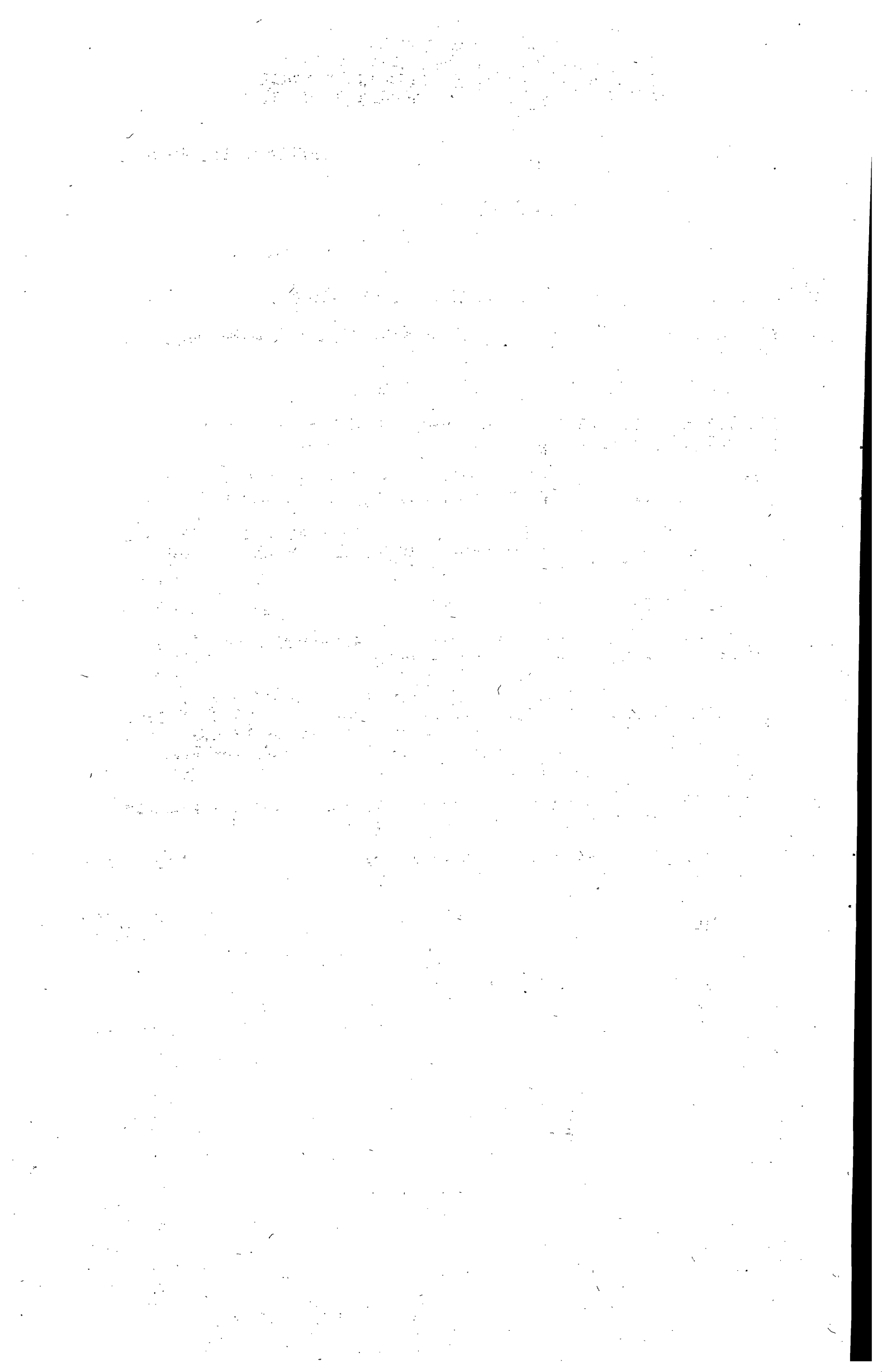
BULLETIN 1098

FEBRUARY 16, 1956.

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - COOPERSTEIN v. ELIZABETH.
2. APPELLATE DECISIONS - NEW TOWN TAVERN, INC. v. PENNSAUKEN TOWNSHIP.
3. APPELLATE DECISIONS - GLAGOLA v. NEWARK.
4. DISCIPLINARY PROCEEDINGS (Bayonne) - GAMBLING - LOTTERY - LICENSE SUSPENDED FOR 20 DAYS.
5. DISCIPLINARY PROCEEDINGS (Garfield) - AGGRAVATED SALES TO MINORS - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Irvington) - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
7. ACTIVITY REPORT FOR JANUARY, 1956.
8. DISCIPLINARY PROCEEDINGS (Keansburg) - AGGRAVATED SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS.
9. DISCIPLINARY PROCEEDINGS (Little Ferry) - SALE DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Hoboken) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
11. 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 1098

FEBRUARY 16, 1956.

1. APPELLATE DECISIONS - COOPERSTEIN v. ELIZABETH.

RUBIN COOPERSTEIN,)
Appellant,)
-vs-) ON APPEAL
MUNICIPAL BOARD OF ALCOHOLIC) CONCLUSIONS AND ORDER
BEVERAGE CONTROL OF THE CITY)
OF ELIZABETH,)
Respondent.)

Eugene J. Kirk, Esq., Attorney for Appellant.
Louis P. Longobardi, Esq., Attorney for Respondent.
Harry B. Kotler, Esq., Attorney for Objectors.
Henry S. Waldman, Esq., Attorney for Objectors.

BY THE DIRECTOR:

This is an appeal from respondent's action whereby it denied an application filed by appellant for a transfer of his plenary retail consumption license C-254 from 1121 Elizabeth Avenue to 1153 Elizabeth Avenue, Elizabeth.

The petition of appeal alleges that the action of respondent was erroneous because:

"It was arbitrary, capricious and without any foundation in law and based upon no reason communicated to the Appellant. The Appellant in his present place of business has no Lease and is subject to dispossess on thirty days notice. He has negotiated a Lease for premises 1153 Elizabeth Avenue, Elizabeth, New Jersey, which is in the same neighborhood and approximately 300 to 400 feet from his present place of business. The denial of Appellant's application creates an undue and unjust hardship for him."

The answer denies the aforesaid paragraph of the petition of appeal and sets forth as a separate defense that respondent contends that appellant did not establish a hardship.

The minutes of a meeting held by respondent on September 20, 1955, disclose that, after a public hearing at which appellant, his wife and his son and numerous objectors were heard, the president of respondent Board announced that the Board, after careful consideration of all the facts and testimony presented at the hearing, had unanimously agreed that the application for transfer be denied. It has been repeatedly indicated that, in all fairness, a local issuing authority should state the reasons for its decision, but such failure is not fatal. Haba Realty Corp. v. Long Branch, Bulletin 984, Item 1.

The evidence herein discloses that appellant holds a plenary retail consumption license with the "broad package privilege" and that in his present premises he has no bar. It appears from the testimony of appellant and his wife that appellant has conducted business at his present premises for more than five years; that he formerly had a lease for said premises but that the lease expired two years ago and that he has continued in possession as a month-to-month tenant. An agent for the landlord of said premises testified that no proceedings have

been instituted to evict appellant from the premises. Appellant, however, alleges that the present place is too small; that he is not making any money; that he has agreed to lease, at a substantial increase in rent, the premises to which the transfer is sought, and that he intends to operate a cocktail bar and package store at said premises if the transfer is granted. Both premises in question are located on a business street and are three hundred sixty feet apart.

The objectors include representatives of a businessmen's association who allege that the transfer would not be in the best interest of the City and individuals who allege that the establishment of another barroom in that section of the City would create unsatisfactory conditions. However, it is unnecessary to decide whether the objections to the transfer of the license within the same business district are sufficient to support the denial of the transfer because the paramount issue to be decided is whether the granting of the transfer would violate the provisions of the local ordinance hereinafter considered.

On April 6, 1955, the Mayor and City Council of the City of Elizabeth adopted an ordinance amending Section 7 of an ordinance adopted March 5, 1952. The pertinent parts of Section 7 as so amended are:

"Section 7. No licenses, excepting club licenses and excepting renewals and person-to-person transfers of other licenses now outstanding, shall be granted for or transferred to premises within a radius of 1500 feet of then existing licensed premises.

"This section shall not apply in situations covered by supplemental section 7A in the ordinance adopted June 29, 1954, concerning transfers from premises destroyed by fire, earthquake, hurricane or other disaster.

"Nothing in this section shall prevent transfer of a license to premises located within a radius of 1500 feet of the premises for which the license sought to be transferred is issued, provided that no part of the 1500 feet has been used up in a previous transfer; it being the intention of this ordinance to permit transfers only in cases where an extreme hardship is established.***"

At the hearing it was stipulated that the premises to which the transfer is sought are within 1500 feet of existing licensed premises. While it is true that appellant seeks a transfer to premises within 1500 feet of his present premises, he has failed to establish any extreme hardship. It is a settled principle that, in a conflict between private interests and the interests of the community at large, the latter must prevail. Pasquale v. Tenafly, Bulletin 1012, Item 1; Weiss v. Newark, Bulletin 1079, Item 7. Since the evidence fails to establish extreme hardship, the first paragraph of Section 7 of the ordinance, as amended, applies. A local issuing authority has no jurisdiction to issue or transfer a license in violation of a local ordinance. Moschera v. Plumsted, Bulletin 1075, Item 8; Higgins v. Elizabeth, Bulletin 1081, Item 5; cf. Jersey City Retail Liquor Dealers Assn. et al. v. Jersey City and Dal Roth, Inc., Bulletin 976, Item 4, aff'd. 28 N. J. Super. 246 (Super. Ct., App. Div. 1953). The action of respondent will be affirmed.

Accordingly, it is, on this 19th day of January, 1956,

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

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - NEW TOWN TAVERN, INC. v. PENNSAUKEN TOWNSHIP.

NEW TOWN TAVERN, INC.,)
 Appellant,)
 -vs-)
 TOWNSHIP COMMITTEE OF THE)
 TOWNSHIP OF PENNSAUKEN,)
 Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

 Malandra & Tomaselli, Esqs., by Joseph Tomaselli, Esq.,
 Attorneys for Appellant.
 Thomas F. Salter, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from respondent's action on June 6, 1955 whereby it refused to renew appellant's plenary retail consumption license for premises located at 7921 River Road, Delair, Pennsauken Township, for the license year terminating June 30, 1956.

The record herein discloses that Isadore Bushkoff, who is the president of a corporation which owns the licensed building and the husband of the president of the corporate licensee herein, held the aforesaid license from March 25, 1946 to April 23, 1951, when it was transferred to appellant; that while the license was held by appellant's predecessor it was suspended by the then Director for ten days, effective April 19, 1948, after entry of a plea of non vult to a charge alleging the possession of illicit liquor; and that it was again suspended by the same authority for thirty-five days, effective January 22, 1951, after entry of a plea of non vult to charges alleging that the licensee permitted an indecent performance on the licensed premises, in violation of State Regulations, and that women were permitted at the bar, in violation of a local ordinance. On March 17, 1955, I suspended appellant's license for seventy days, effective March 28, 1955, upon a finding of guilt after entry of a plea of not guilty to charges alleging that appellant allowed a female entertainer to perform an indecent dance on the licensed premises and suffered an employee to have in his possession contraceptive devices. Appellant was granted a stay of said suspension by the Superior Court pending an appeal thereto, and when that Court affirmed my determination I entered an order on August 24, 1955 reimposing the suspension against the license as extended by my Order dated June 29, 1955.

In its Petition of Appeal appellant alleges, in substance, that the action of respondent was erroneous in that it denied appellant's application for renewal of its license without sufficient and justifiable reason.

Respondent, in its Answer, denies appellant's contention and alleges seven specific reasons governing its action.

At the hearing which was held de novo, as provided by Rule 6 of State Regulations No. 15, thirty witnesses appeared in appellant's behalf, including veteran employees of the licensed tavern, neighbors and patrons thereof, the former Police Chief of the Township who retired in 1952, and two police officers of the municipality, all of whom testified that they never saw anything undesirable in or connected with the licensed premises.

Appellant further submitted in evidence a petition bearing over 100 signatures of residents of the community who favored the renewal of the license.

Witnesses called by respondent were the Assistant to the Township Clerk, four members of the five-man Township Committee, three ministers, and a resident of the Township. Reasons for respondent's action, as testified to by the Committeemen, may, in substance, be summarized as follows: (1) appellant operated its business on an unlicensed portion of its premises, (2) numerous phone calls to the police emanated from appellant's tavern, (3) appellant's lack of cooperation with the Fire Marshal, (4) the type of advertising engaged in by appellant, (5) the number of persons opposed to the licensed establishment and (6) the prior record of appellant and its predecessor.

A summary of the evidence respecting the above enumerated reasons is, substantially, as follows: (1) Appellant was granted a building permit by the Township to enlarge its premises by the addition of a kitchen. Instead, it erected a barroom in which though unlicensed, it conducted part of its licensed business. The evidence respecting the operation of business on the unlicensed portion of the premises is meager and uncorroborated. One Committeeman testified that the police ordered appellant to "desist" and that there was an immediate compliance with the order. (2) There was introduced in evidence a list of the phone calls to the police which, upon perusal, indicates that appellant conformed with recommended practices to avoid untoward incidents. "The conduct of the licensee in reporting potential disturbances to the police is commendable rather than reprehensible." McGuire v. Paulsboro, Bulletin 392, Item 10. (3) The Fire Marshal ordered "Bushkoff" to construct additional doors, rehing others, and to remove chairs and tables from existing exits to prevent fire hazards and after a considerable lapse of time the order was only partially complied with. It is clear, however, that no one in authority directly communicated with appellant or with Isadore Bushkoff (the landlord) respecting alleged fire hazards; yet, when Mr. Bushkoff learned of the Fire Marshal's desires, he promptly and fully complied therewith. (4) There is little, if any, evidence as to the type of advertising engaged in by appellant, other than the statements of the Committeemen that it was "risque." (5) A petition containing 200 signatures of persons representing themselves to be residents of Delair (a suburb of Pennsauken Township) and opposed to appellant's establishment was offered and admitted provisionally in evidence by the Hearer. The petition, having been filed primarily to oppose appellant's previous application for a transfer of its license to enlarged premises, is irrelevant to the issue herein.

The Reverend Gentlemen who testified are to be commended for their deep interest and zeal but their testimony, which is conjectural for the most part and hearsay as to the material facts, may not properly be considered in a determination of the issue herein.

There remains (6) the prior record of appellant which, from the evidence, appears to be the controlling reason why respondent considered appellant unworthy of the renewal of its license. Considering the testimony presented herein, it is difficult to understand why respondent, after granting a transfer of the license in question to appellant in 1951 and renewing it yearly up to and including the 1954-55 licensing year, knowing all the while of the record of appellant's predecessor, should because of the one suspension imposed in 1955 consider appellant unworthy to continue in possession of said license.

Nor can I understand why a building permit was issued, with the knowledge of the Township Committee, during the license period 1954-1955, permitting appellant to add a substantial improvement to its existing premises at considerable cost, if the licensee's operation had become so obnoxious to the Township fathers. Is it not reasonable to assume that respondent did not then intend to deny the renewal of appellant's license for the current year? In all fairness, some indication of respondent's attitude should have been given to appellant when the building permit was applied for so that it might have had the opportunity of disposing of its license prior to the renewal date thereof.

It is admitted by one of the Committeemen that a renewal was granted to another licensee upon whose premises a brawl ensued in which one of several police officers summoned to the scene was injured. "...applicants for licenses should be treated alike. It is not fair to make fish of one and fowl of another." Barbuto v. Trenton, Bulletin 56, Item 5.

Nor can I understand why respondent failed to institute disciplinary proceedings against appellant or at least warn it, if, as testified, the alleged violations were continuous over a period of years. "Certainly, where a municipal authority has reason to believe that one of its retail licensees may be operating the licensed business in an objectionable manner and in violation of any provision of the Alcoholic Beverage Law or of rules and regulations, it should take prompt action with respect to the bringing of disciplinary proceedings against the licensee. R. S. 33:1-24." Turf Club Bar, Inc. v. Asbury Park, Bulletin 770, Item 1.

Since the proof herein for the most part is conjectural, hearsay and inconclusive, and because it appears that respondent's action was largely motivated by its desire to rid the Township of the Bushkoffs, I conclude that respondent's action was unreasonable. In fairness to licensees, where the circumstances warrant, a reasonable opportunity should be given to them to liquidate their investment in licensed premises. I am, therefore, reversing the action of respondent and requiring it to renew appellant's license; but the reversal is a modified one and subject to the express condition that the license of appellant is transferred to another and suitable person within 90 days of the date of this order. In the recent case of The Florence Methodist Church, et als. v. Florence and Christy, Bulletin 1095, Item 9, wherein my action in reversing the municipality was sustained by the Superior Court, Appellate Division, and the Supreme Court refused to review the same, I thereafter permitted the licensee a grace period of 90 days within which to dispose of her license and I feel that the licensee herein is entitled to similar treatment.

Accordingly, it is, on this 23rd day of January, 1956,

ORDERED that the action of respondent in refusing to renew appellant's license C-30 for premises 7921 River Road, Delair, Pennsauken Township, be and the same is hereby reversed and respondent is hereby directed to issue such renewal license for the 1955-1956 licensing year upon the express condition that said renewal license is transferred to another and suitable person within 90 days of the date of this order.

WILLIAM HOWE DAVIS
Director.

3. APPELLATE DECISIONS - GLAGOLA v. NEWARK.

CHARLES GLAGOLA, trading as)
THE BOAT HOUSE,)

-vs- Appellant,)

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY)
OF NEWARK,)

Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

-----)
Benjamin Romano, Esq., by Durand A. Metrione, Esq., Attorney
for Appellant.

Vincent P. Torppey, Esq., by Nicholas Albano, Esq., Attorney
for Respondent.

BY THE DIRECTOR:

This is an appeal from respondent's action whereby it suspended appellant's plenary retail consumption license for a period of forty days, effective November 14, 1955, upon a finding of guilt in disciplinary proceedings on a charge alleging that he, during the month of October 1954, sold, served and delivered alcoholic beverages to two minors and permitted the consumption of such beverages by said minors, in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

Upon the filing of the appeal herein, an Order was entered on November 10, 1955 staying respondent's order of suspension until the entry of a further order herein. R. S. 33:1-31.

The parties hereto submitted the case on the transcript of the proceedings before the local issuing authority pursuant to Rule 8 of State Regulations No. 15.

The Petition of Appeal alleges in substance that the action of respondent was erroneous in that it was contrary to the weight of the evidence.

Respondent in its Answer alleges that its action was based upon the factual testimony presented before it.

At the hearing before respondent Board, Jo Ann --- (age 14) and Patricia --- (age 16) testified that they visited defendant's licensed premises in October 1954, wherein they were served alcoholic beverages by a bartender who made no inquiry as to their ages. They further testified in detail respecting the physical characteristics of the premises when they visited them in October and the changes that were noted when they visited the tavern with police officers in January 1955. Appellant denied having served alcoholic beverages to the minors but admitted that alterations were made in the licensed premises in January 1955.

The transcript indicates discrepancies in the testimony of Jo Ann --- which may reasonably be attributed to her tender years and the lapse of time between the alleged violation and the hearing thereon. However, the minors, not in each other's presence, corroborated each other as to the material fact that they were served alcoholic beverages on the licensed premises and that no one made inquiry as to their ages. Their failure to identify the specific person who served them is not fatal in disciplinary proceedings against the licensee. Re Chessman, Bulletin 1082, Item 10 and cases therein cited.

Considering all the circumstances herein I am satisfied that the finding of guilt by respondent is supported by a fair preponderance of the believable evidence. Its action is affirmed.

Accordingly, it is, on this 23rd day of January, 1956,

ORDERED that the appeal herein be and the same is hereby dismissed; it is further

ORDERED that the forty (40) day suspension of appellant's Plenary Retail Consumption License C-917, for premises 178-182 Doremus Avenue, Newark, imposed by respondent, be and the same is hereby restored and reimposed against appellant for the same premises, to commence at 2:00 a.m. February 1, 1956, and to terminate at 2:00 a.m. March 12, 1956.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE
SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against

JOSEPH BANACKI & JOHN CIESNICKI
T/a WHITEY & LEFTY'S BAR
647 Broadway
Bayonne, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-89, issued by the Board of Commissioners of the City of Bayonne.

Sidney Simandl, Esq., Attorney for Defendant-licensees.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to the following charges:

"1. On or about August 23, 1955 and prior thereto, you allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets, in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20.

"2. On the aforesaid occasions, you allowed, permitted and suffered tickets and participation rights in lotteries, commonly known as the 'numbers game' and the Irish Hospitals' Sweepstakes, to be sold and offered for sale in and upon your licensed premises, and you also possessed, had custody of, and allowed, permitted and suffered tickets and participation rights in the aforementioned lotteries in and upon your licensed premises; in violation of Rule 6 of State Regulations No. 20."

At the hearing held herein Detective Pabst of the New Jersey State Police testified that on August 23, 1955 at about 12:30 p.m., he and another State Police Detective and two ABC agents entered defendants' licensed premises, pursuant to a search warrant issued by a Judge of the Superior Court. Detective Pabst further testified that he searched Edward Banacki who was tending bar when he entered; that he found in Banacki's wallet a "sweeps ticket" and a receipt for a race that had been run sometime in the past; that he picked up from the floor a number slip that had been dropped by Banacki during the search; that he later searched through a pile of empty cases near the

telephone booth and found a horse betting slip setting forth the names of horses which had run on August 22; that he searched the pages of a telephone book and found three sheets of carbon paper, one of which indicated that it was used to duplicate a horse race betting transaction. On cross-examination the Detective stated that Banacki had denied he dropped the number slip and denied any knowledge of the horse betting slip or the carbon paper.

One of the ABC agents testified that, during the investigation, he found on the floor two slips of paper which he identified as number bets and a third slip which he identified as a record of horse race bets. The other ABC agent testified that, during the investigation, he answered the telephone in the licensed premises about eight or ten times; that on nearly all these occasions the persons making the calls would ask for John and when they were told that John was not there would ask the agent to take bets for John on various horses and various numbers. At that time John Lapinski was a patron in the licensed premises.

On behalf of defendants, Edward Banacki testified that he had purchased the sweepstakes ticket in 1954 for a race held in or about May 1955; that he did not drop the number slip picked up by Detective Pabst; that he had no knowledge of the other slips found on the premises and that John Lapinski had not used the telephone to accept bets. Joseph Banacki testified that he entered after the search was "nearly over"; that he had no knowledge of the various papers found on the premises and that he never authorized anyone to accept bets over the telephone. He admitted that he knew John Lapinski "from school days"; that Lapinski is a boilermaker by trade but that he was unemployed in August 1955 because of an arthritic condition.

Defendants' attorney has moved to suppress the evidence herein because the search warrant was defective. In my opinion the search warrant was valid but, in any event, the evidence seized is admissible. In re 301-317 Clinton Avenue, 35 N. J. Super. 136; modified sub. nom. In re Application of Berlin, 19 N. J. 522 (Sup. Ct. 1955).

After considering all the evidence and the oral argument of counsel for defendants, I find defendants guilty as to Charge 1 and guilty as to so much of Charge 2 as alleges that they allowed, permitted and suffered tickets and participation rights in lotteries in and upon their licensed premises.

Defendants have no prior adjudicated record. I shall suspend defendants' license for twenty days. Re Conklin, Bulletin 1086, Item 4.

Accordingly, it is, on this 16th day of January, 1956,

ORDERED that Plenary Retail Consumption License C-89, issued by the Board of Commissioners of the City of Bayonne to Joseph Banacki & John Giesnicki, t/a Whitey & Lefty's Bar, 647 Broadway, Bayonne, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. January 25, 1956, and terminating at 2:00 a.m. February 14, 1956.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - AGGRAVATED SALES TO MINORS -
 LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

JEAN BUTTS & WILLIAM BUTTS)
 T/a BELMONT BALLROOM)
 424 River Drive)
 Garfield, N. J.,)

CONCLUSIONS
 AND ORDER

-----)
 Holders of Plenary Retail Consump-)
 tion License C-63, issued by the)
 Mayor and Council of the City of)
 Garfield.)

Richard J. Baker, Esq., Attorney for Defendant-licensees.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that on December 11, 1955, they sold, served and delivered alcoholic beverages to five minors and allowed, permitted and suffered the consumption of such beverages by said minors in and upon their licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that four ABC agents entered defendants' licensed premises at about 9:00 p.m., December 11, 1955. There were about 400 persons in the licensed premises and two bands supplied music for dancing in the ballroom portion thereof. About 11:10 p.m., the agents observed five young people who were consuming alcoholic beverages. The agents seized the drinks and ascertained that the persons consuming the drinks were Eugene ---, age 17; Egeniuss ---, age 17; Richard ---, age 18; Joseph ---, age 18 and Albert ---, age 19. Two of the minors stated that they had previously consumed two drinks of whiskey and soda and three of the minors stated that they had previously consumed one drink of beer. All of these drinks were purchased from John Gabrouk, a bartender in defendants' premises. In attempted mitigation it is alleged that it is difficult to prevent sales to minors at a dance attended by a large crowd. That, however, is the responsibility of the licensees, and they must accept the consequences if the law is violated.

Defendants have no prior adjudicated record. In view of the fact that two of the minors were only seventeen years of age, and considering the number of minors involved, I shall suspend defendants' license for twenty-five days. Cf. Re Molinaro, Bulletin 1046, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 16th day of January, 1956,

ORDERED that Plenary Retail Consumption License C-63, issued by the Mayor and Council of the City of Garfield to Jean Butts & William Butts, t/a Belmont Ballroom, 424 River Drive, Garfield, be and the same is hereby suspended for twenty (20) days, commencing at 4:00 a.m. January 24, 1956, and terminating at 4:00 a.m. February 13, 1956.

WILLIAM HOWE DAVIES
 Director.

6. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ARTHUR OSCAR HERBERG)
T/a PARKWAY DRUGS)
395 Myrtle Avenue)
Irvington, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-12, issued by the Board of Commissioners of the Town of Irvington.)

-----)
Arthur Oscar Herberg, Defendant-licensee, Pro se.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold an alcoholic beverage at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulations No. 30.

The file herein discloses that on December 15, 1955, at about 12:15 p.m., two ABC agents, acting on a complaint that defendant was selling alcoholic beverages below minimum resale prices, entered defendant's licensed premises. One of the agents asked defendant how much a quart of Three Feathers would cost and was told that the price was \$5.55, but that the licensee would give it to him "on the Q.T." for \$4.69. The agent ordered two quart bottles and the licensee placed two one-quart bottles of "V.S.R. Very Special Reserve, Three Feathers Blended Whiskey" in paper bags and charged the agent \$9.38 for the two bottles. The agents then identified themselves to the licensee. The Minimum Consumer Resale Price then in effect for the item in question was \$5.55.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of ten days. Re Weintrob, Bulletin 1070, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 12th day of January, 1956,

ORDERED that Plenary Retail Distribution License D-12, issued by the Board of Commissioners of the Town of Irvington to Arthur Oscar Herberg, t/a Parkway Drugs, 395 Myrtle Avenue, Irvington, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. January 23, 1956, and terminating at 9:00 a.m. January 28, 1956.

WILLIAM HOWE DAVIS
Director.

7.

ACTIVITY REPORT FOR JANUARY 1956

ARRESTS:		
Total number of persons arrested	-----	27
Licensees and employees	-14	
Bootleggers	-13	
SEIZURES:		
Motor vehicles - cars	-----	1
Distilled alcoholic beverages - gallons	-----	71.17
Wine - gallons	-----	2.62
Brewed malt alcoholic beverages - gallons	-----	1.21
RETAIL LICENSEES:		
Premises inspected	-----	1,154
Premises where alcoholic beverages were gauged	-----	712
Bottles gauged	-----	12,711
Premises where violations were found	-----	96
Violations found	-----	123
Type of violations found:		
Unqualified employees	-42	Reg. #38 sign not posted - 5
Disposal permit necessary	-9	Gambling devices - 1
Other mercantile business	-6	Other violations - 60
STATE LICENSEES:		
Premises inspected	-----	20
License applications investigated	-----	4
COMPLAINTS:		
Complaints assigned for investigation	-----	484
Investigations completed	-----	405
Investigations pending	-----	179
LABORATORY:		
Analyses made	-----	175
Refills from licensed premises - bottles	-----	7
Bottles from unlicensed premises	-----	12
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made	-----	22
Persons fingerprinted for non-criminal purposes	-----	156
Identification contacts made with other enforcement agencies	-----	127
Motor vehicle identifications via N. J. State Police teletype	-----	13
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	7
Violations involved:		
Sale to minors	-3	
Sale during prohibited hours	-2	
Sale to non-members by club	-1	
Permitting female at bar (local reg.)	-1	
Cases instituted at Division	-----	34
Violations involved:		
Sale to minors	-11	Permitting female impersonator on premises - 1
Sale during prohibited hours	-6	Sale to intoxicated persons - 1
Permitting immoral activity on premises	-3	Sale outside scope of license - 1
Sale below minimum resale price	-3	Permitting bookmaking on premises - 1
Hindering investigation	-3	Permitting hostesses on premises - 1
Fraud in application	-2	Conducting business as a nuisance - 1
Possessing illicit liquor	-2	Unqualified employees - 1
Permitting foul language on premises	-2	Fraud and front - 1
Failure to afford view into premises during prohibited hours	-2	Permitting lottery activity (numbers) - 1
Retailer to retailer sales	-2	Delivery without bona fide invoice - 1
Cases brought by municipalities on own initiative and reported to Division	-----	7
Violations involved:		
Sale to minors	-4	
Permitting brawl on premises	-1	
Sale during prohibited hours	-1	
Permitting female impersonator on prem.	-1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	44
Appeals	-5	Seizures - 7
Disciplinary proceedings	-25	Tax revocations - 2
Eligibility	-3	Objections to license - 2
STATE LICENSES AND PERMITS ISSUED:		
Total number issued	-----	1,058
Licenses	-2	
Employment permits	-138	Wine permits - 8
Solicitors "	-51	Miscellaneous permits - 130
Disposal "	-99	Transportation insignia - 315
Social affair "	-286	Transportation certificates - 29

Dated: February 3, 1956

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - AGGRAVATED SALES TO MINORS -
LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary)
Proceedings against)

ROBERT, CATHERINE and EDWARD J.)
CASEY and MARY JENNINGS)
T/a CASEY'S)
93-97 Beachway)
Keansburg, N. J.,)

CONCLUSIONS
AND ORDER

-----)
Holders of Plenary Retail Consump-)
tion License C-2, issued by the)
Borough Council of the Borough of)
Keansburg.)

James F. McGovern, Jr., Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to the following charge:

"On Sunday night, September 4 and early Monday morning, September 5, 1955 you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Charles ---, age 19, and Guy ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing held herein Charles --- testified that he is nineteen years of age and that he and Guy --- entered defendants' licensed premises about 9:00 p.m. Sunday, September 4, 1955. He further testified that they went to the bar and ordered two beers from the bartender; that the bartender served to each a glass of beer; that they remained on the premises until after midnight; that during their visit each consumed "somewheres around twenty" beers, and that no one then questioned either as to his age or requested either to make any written statement as to his age. On cross-examination he admitted that on a previous visit to defendants' premises he had exhibited to a bartender a "piece of paper", in the form of a draft card, indicating that the holder thereof was twenty-one years of age.

At the hearing Guy --- (20 years of age) substantially corroborated the testimony given by Charles --- as to the sale, service and consumption of alcoholic beverages in defendants' licensed premises on the evening of September 4 and during the early morning hours on September 5, 1955. Two ABC agents testified that they had taken statements from the minors and one agent testified that on September 12, 1955, Charles --- had directed him to defendants' premises and identified it as the place in which they had been served alcoholic beverages. The latter agent also testified that on September 12, 1955, Edward J. Casey and Larry Delcolliano (a bartender) had denied seeing Charles at any previous time.

Defendants presented no testimony at the hearing. Their attorney indicated that they had desired to hear the testimony to ascertain the interest displayed by a member of the Keansburg

Police Department who reported the violation to this Division. Under these circumstances, I shall deny the plea for a remission of part of the penalty, which remission is usually granted when a confessive plea is entered.

Defendants have no prior adjudicated record. The minimum suspension in a case involving sale to two minors over eighteen years of age is ten days. However, because of the large number of drinks served to and consumed by the minors in this case, I shall suspend defendants' license for fifteen days (Re McCollum, Bulletin 1052, Item 5).

In view of the fact that the summer season has ended, no effective penalty can be presently imposed. The period for the suspension will be fixed by further order to be entered at a subsequent date (Re DeFreitas, Bulletin 1051, Item 5).

Accordingly, it is, on this 16th day of January, 1956,

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Keansburg to Robert, Catherine and Edward J. Casey and Mary Jennings, t/a Casey's, for premises 93-97 Beachway, Keansburg, be and the same is hereby suspended for fifteen (15) days, the time to be fixed by subsequent order, as aforesaid.

WILLIAM HOWE DAVIS
Director.

- 9. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
GREAT ARROW INVESTMENT CORP.
T/a MONTE CARLO
Frederick Street and Route #46
Little Ferry, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Mayor and Council of the Borough of Little Ferry.)

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

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On Saturday, October 29, 1955, between 3:00 A.M. and 3:25 A.M., you sold, served, delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and permitted the consumption of alcoholic beverages upon your licensed premises; in violation of Section 1 of an Ordinance adopted by the Mayor and Council of the Borough of Little Ferry on January 29, 1945, which prohibits any such activity between the hours of 3:00 A.M. and 7:00 A.M. on weekdays.

"2. On Saturday, October 29, 1955, between 3:00 A.M. and 3:25 A.M., you failed to close your entire licensed premises and have them remain closed; in violation of Section 1 of the above mentioned Ordinance."

The file herein discloses that at 3:00 a.m. October 29, 1955, an ABC agent who had been in defendant's licensed premises observed some forty-five patrons being served alcoholic beverages by two bartenders therein. A four-piece band entertained until 3:15 a.m. At 3:05 a.m. and again at 3:20 a.m. the agent was served highballs as were the patrons, and no attempt was made to have the customers leave the premises. A second ABC agent, who had remained outside, entered the premises by the front door at 3:25 a.m. and identified himself to Michael Geralle, president of the corporate licensee herein, who said, "I tried to get everybody out on time." When the first agent identified himself and stated that during his visit no one was asked to leave, Geralle insisted that it was then only 3 o'clock, the time indicated on a wall-clock. At the agents' request, Geralle went to a 'phone booth where a call was made to the operator for the correct time, which she reported was 3:32 a.m. Geralle walked away, refusing to listen to her verification.

Defendant has no prior adjudicated record. However, when its predecessor (Scarne Enterprises, Inc.) held the license, it was suspended on three occasions as follows: by the local issuing authority for three days, effective January 5, 1953, for an "hours" violation; by the same authority for five days, effective June 21, 1953, for an "hours" violation (see Bulletin 974, Item 2); by the Director for ninety days, effective January 5, 1954 (reimposed to begin January 18, 1954 (see Bulletin 1001, Item 8)) for (a) an "hours" violation, (b) fraud in license application in failing to reveal prior disciplinary record (Re Scarne Enterprises, Inc., Bulletin 998, Item 2). Michael Geralle, president of the corporate licensee herein, was president and principal stockholder of the Scarne Enterprises, Inc.

Considering all the circumstances herein, I shall suspend defendant's license for a period of forty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty days.

Accordingly, it is, on this 23rd day of January, 1956,

ORDERED that Plenary Retail Consumption License C-5, issued by the Mayor and Council of the Borough of Little Ferry to Great Arrow Investment Corp., t/a Monte Carlo, for premises at Frederick Street and Route #46, Little Ferry, be and the same is hereby suspended for forty (40) days, commencing at 3:00 a.m. February 1, 1956, and terminating at 3:00 a.m. March 12, 1956.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against)

MAKEM, INC.)
312 River Street)
Hoboken, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-131, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.)
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Saul C. Schutzman, 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 a charge alleging that it possessed on its licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe the contents thereof, in violation of Rule 27 of State Regulations No. 20.

The file herein discloses that on November 16, 1955, an ABC agent tested the open stock of liquors in defendant's premises. His tests indicated that the contents of forty-four bottles were genuine as labeled, but the contents of two bottles appeared to be off in color. The agent seized the two bottles and subsequent analysis by the Division's chemist disclosed that the contents of one bottle appeared to be genuine as labeled but that the contents of the other bottle were low in solids and acids. It is apparent from the chemist's report that the contents of the second seized bottle were not genuine as labeled.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of fifteen days and remit five days for the plea entered herein, leaving a net suspension of ten days (Re Pacifico, Bulletin 1088, Item 7).

Accordingly, it is, on this 23rd day of January, 1956,

ORDERED that Plenary Retail Consumption License C-131, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Makem, Inc., for premises 312 River Street, Hoboken, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. January 30, 1956, and terminating at 2:00 a.m. February 9, 1956.

WILLIAM HOWE DAVIS
Director.

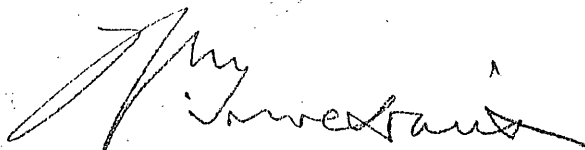
11. STATE LICENSES - NEW APPLICATIONS FILED.

William H. Black
T/a Springcrest Beverage Company
200 Lock Street
Phillipsburg, N. J.

Application filed February 14, 1956 for person-to-person transfer of State Beverage Distributor's License SED-48 from Mabel Mamber, t/a Spring Crest Beverage Co., 200 Lock Street, Phillipsburg, N. J.

William J. Piechowski & Joseph J. Zimecki
T/a Di Carlo Beverages
Ellis Street
Burlington, N. J.

Application filed February 14, 1956 for person-to-person transfer of State Beverage Distributor's License SED-16 from Teresa DiCarlo, Executrix of the Estate of Pasquale DiCarlo, Rear 460 Washington Avenue, Burlington, N. J.



William Howe Davis
Director.