

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

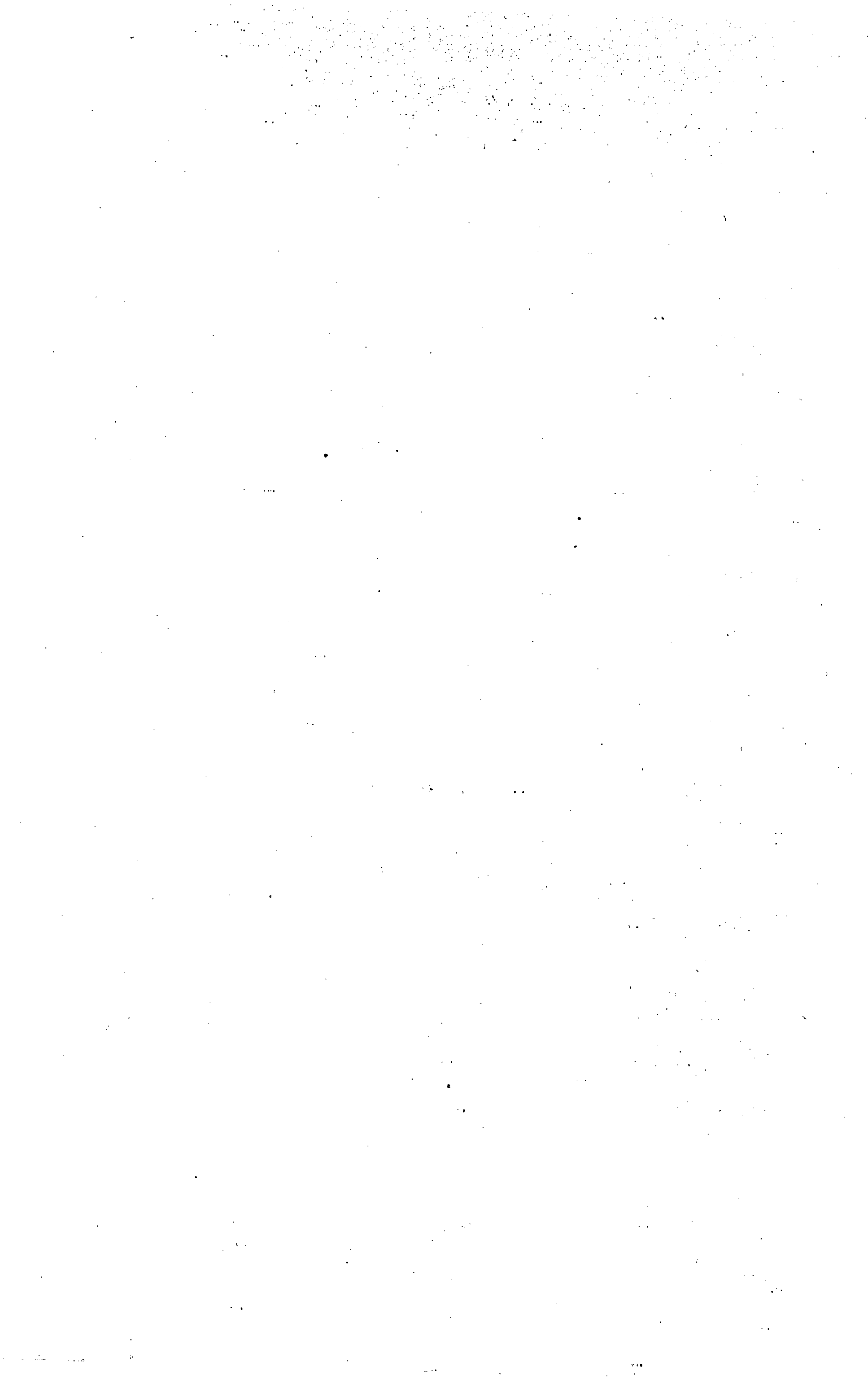
BULLETIN 1078

AUGUST 30, 1955.

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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 1078

AUGUST 30, 1955.

1. COURT DECISIONS - NEW TOWN TAVERN, INC. v. DIRECTOR -
ORDER OF DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-414-54

WILLIAM HOWE DAVIS, Director,)
Division of Alcoholic Beverage)
Control,)

Plaintiff-Respondent,)

-vs-)

NEW TOWN TAVERN, INC., A corpora-)
tion, t/a New Town Tavern,)

Defendant-Appellant.)
-----)

Argued August 8, 1955. Decided August 12, 1955.

Before Judges Conford, Sullivan and Knight.

Mr. Joseph Tomaselli argued the cause for defendant-appellant (Messrs. Malandra & Tomaselli, attorneys).

Mr. Samuel B. Helfand, Deputy Attorney General, argued the cause for plaintiff-respondent (Mr. Grover C. Richman, Jr., Attorney General of New Jersey, attorney).

The opinion of the Court was delivered by

CONFORD, J.A.D.

The appeal here is from imposition of penalty by the plaintiff upon defendant, holder of a license for sale of alcoholic beverages for consumption on the premises, by reason of alleged violation of regulations promulgated by the Director.

The first charge is that there was permitted upon the premises "lewdness and immoral activity", this constituted by a dance performance by a female entertainer. An investigator of the Division of Alcoholic Beverage Control testified to his observations of the performance in question. We deem it unnecessary to recount the details. Suffice it to say that we conclude the testimony gave substantial foundation for the inference that the predominant object and natural effect upon the observers-patrons of one portion of the performance was erotic excitation. Thus, whether we apply the rule of "substantial evidence", generally applicable to measure the scope of judicial review of this kind of administrative adjudication, In re Larsen, 17 N. J. Super. 564 (App. Div. 1952), Mazza v. Cavicchia, 28 N. J. Super. 280 (App. Div. 1953), reversed on other grounds 15 N. J. 498 (1954), or exercise our power to make an independent finding as to the facts, as defendant suggests we should, we would conclude that lewdness and immoral activity took place. We

are not impressed with the testimony of the defendant's witnesses to the effect that the rendition in question was a bona fide dance, in the sense of art or entertainment, rather than the dirty exhibition the Director concluded it to be. Cf. Mitchell v. Cavicchia, 29 N. J. Super. 11, 14 (App. Div. 1953); McFadden's Lounge, Inc. v. Div. of Alcoholic Beverage Control, 33 N. J. Super. 61, 64-68 (App. Div. 1954). And see Adams Theatre Co. v. Keenan, 12 N. J. 267, 272 (1953).

What is lewdness or immorality for purposes of a rule regulating premises licensed for the sale of alcoholic beverages may be determinable on a distinctly narrower basis than for purposes of regulation of commercial entertainment generally. (See the McFadden's Lounge case, supra, at p. 68).

The second charge found sustained by the Director was that the defendant "possessed and allowed, permitted and suffered" prophylactic devices and contraceptives in and upon the premises. The testimony of the investigator was that some dozen packages of rubber contraceptives were found in a bag owned by a washroom attendant at the premises and some additional packages in the men's room; that upon confrontation of the attendant with the articles in the presence of the defendant's manager, he said he sold them for half a dollar a package. At the hearing the manager and the attendant testified that the former knew nothing about the presence of the contraceptives on the premises and on this basis it is now contended that defendant is not shown to have possessed the articles or allowed, permitted, etc. such possession. We think the testimony fairly sustains the conclusion that if the defendant's manager did not actually know of the presence of the articles, he could have so apprised himself by reasonable supervision of the attendant; and that a failure so to do followed by the present result constitutes the allowance or permission of their possession on the premises, within the fair construction of the regulation in the light of its salutary object. See Mazza v. Cavicchia, supra (15 N. J. at p. 509).

Affirmed.

2. STATE BEVERAGE DISTRIBUTOR'S LICENSE - OBJECTION TO TRANSFER HELD TO BE MERITORIOUS - APPLICATION FOR TRANSFER DENIED.

In the Matter of Objections to)
an Application for Transfer of)
State Beverage Distributor's)
License SBD-58 (for the 1954-55)
licensing year) held by)

PHILLIPS DISTRIBUTING COMPANY, INC.,)

CONCLUSIONS

from 107 Main Street, Avon-by-the-Sea,)
New Jersey, to)

103 Easton Avenue)
New Brunswick, N. J.)

Herbert & Isherwood, Esqs., by Howard Isherwood, Jr., Esq.,
Attorneys for Applicant.

Middlesex Tavern Association, by John J. Chalupa, President, and
Joseph E. Zimmerman, ULBA, Board of Governors, Objecto

BY THE DIRECTOR:

A written objection was filed with me by the Middlesex Tavern Association alleging, in substance, that the area to which the transfer is sought is adequately served by existing licensees.

At the hearing scheduled herein John J. Chalupa testified that he is president of the Middlesex Tavern Association, composed of "C" licensees in nineteen municipalities (including New Brunswick) in Middlesex County, and that he was delegated by his Association to appear at the hearing for the purpose of objecting to the application for transfer. He testified that there are "within this area including the city limits five SBD beer licensees." He expressed the opinion that the area is adequately serviced, and that there is no need for any additional SBDs in that area.

Joseph Zimmerman testified that he is the holder of a plenary retail consumption license for premises 149 Church Street, New Brunswick; that there are five or six taverns within six blocks of 103 Easton Avenue, and that in his opinion there is no need for an additional SBD license in that area.

On behalf of the applicant Ladislaud M. Gerencser testified that he will be "the individual operating under this license if it is transferred to New Brunswick area." While there is no specific reference to this fact in the testimony, I assume from the evidence presented that Mr. Gerencser has made arrangements to purchase the stock of applicant corporation from its present stockholders if and when the pending application to transfer the license is granted. This witness testified that "we are going to get the franchise from the Trenton Old Stock" and that, if the transfer is granted, the applicant corporation intends to sell Trenton Old Stock beer and ale to retail licensees particularly in Somerset and Middlesex counties. The witness expressed the opinion that there was need for another SBD license in the area to facilitate the sale of Trenton Old Stock to retailers in said counties, and because the population of both counties is rapidly increasing. The witness further testified that, if the application is granted, the applicant corporation does not intend to sell to consumers.

The transfer of a license, whether State or municipal, to other premises is not a privilege inherent in a license. If good cause appears, an application may be denied in the discretion of the issuing authority. Re Variety Beers and Soda Distributors, Inc., Bulletin 1000, Item 6.

The evidence does not disclose that the applicant has any customers in the New Brunswick area. Apparently it merely hopes to build its business from the sale of Trenton Old Stock beer and ale to retailers. No retailers testified that they wish or require this service.

After carefully examining the within record, I do not believe that public convenience and necessity require the transfer of the license to, and the establishment of what is essentially a new business thereunder in, New Brunswick. Re Variety Beers and Soda Distributors, Inc., supra. This case is clearly distinguished from Re Novak, Bulletin 1067, Item 2, wherein I granted the transfer of a similar license because it appeared that applicants had an established soda business and the transfer of the license would serve the convenience of several hundred of their customers.

Under the circumstances appearing in this case, the application for transfer of the license in question will be denied.

WILLIAM HOWE DAVIS
Director.

Dated: July 27, 1955.

3. STATE BEVERAGE DISTRIBUTOR'S LICENSE - OBJECTION TO TRANSFER HELD TO BE WITHOUT MERIT - APPLICATION GRANTED.

In the Matter of Objections to)
an Application for Transfer of)
State Beverage Distributor's)
License SED-111 held by)

CONCLUSIONS

SAXON DISTRIBUTING COMPANY)

from 420 Summit Avenue, Jersey City,)
to 15 Voorhis Lane, Hackensack, N.J.)

Saxon Distributing Company, by George Saxon, President, Applicant.
Mrs. Morris Shargorod, Secretary, Taylor Beverages, Objector.

BY THE DIRECTOR:

A written objection was filed by Taylor Beverages alleging that the premises for which the transfer was sought by applicant is located within two blocks of the objector's licensed premises and that there are similar liquor licensees operating from other nearby municipalities.

George Saxon, president of the corporation making application for the transfer herein, testified that although its present licensed premises are located in Jersey City, all of its customers are in Bergen County; that it has approximately 2,000 customers and 500 of them purchase malt beverages.

A woman who described herself as "a secretary and book-keeper" of Taylor Beverages by whom the written objection was filed testified that it was the opinion of the members of the partnership that there are enough liquor establishments at present to meet the needs of the customers in Hackensack and the surrounding communities. Although notice of the proposed transfer was sent to the City Clerk of Hackensack, no objection was received from and no appearance was entered by the municipality at the date of the hearing.

Inasmuch as the applicant presently operates exclusively in Bergen County, the change of its premises from its present location in Jersey City to Hackensack will not affect the objector in any manner whatsoever. I conclude that the objection made herein is without merit.

The application for transfer of the license in question is hereby approved.

WILLIAM HOWE DAVIS
Director.

Dated: July 27, 1955.

4. APPELLATE DECISIONS - PIGNOTTI v. WEST NEW YORK (CASES NOS. 1 AND 2).

JOHN PIGNOTTI and MARIE PIGNOTTI,)
t/a SKY CLUB,)

Appellants,)

-vs-)

BOARD OF COMMISSIONERS OF THE)
TOWN OF WEST NEW YORK, Hudson)
County, New Jersey,)

Respondent.)

(Cases No. 1 and No. 2)
-----)

ON APPEAL
CONCLUSIONS AND ORDER

Alexander White, Esq., Attorney for Appellants.
Samuel L. Hirschberg, Esq., Attorney for Respondent.

BY THE DIRECTOR:

Appellants filed two appeals, both entitled as hereinabove set forth. They have been consolidated and will be determined on the appeal herein.

The appeals are taken from respondent's action in disciplinary proceedings, whereby on April 20, 1955, (1) it suspended appellants' license C-1 for ten days for employing in their licensed premises a minor who held no employment permit, in violation of Rule 3 of State Regulations No. 13 and (2) it suspended the said license for an additional twenty days for sale of alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20. These alleged violations will hereinafter be referred to as charge 1 and charge 2. The licensed premises are located at 6301 Dewey Avenue, West New York, New Jersey.

Upon filing of the appeals, I entered an order on April 26, 1955, staying respondent's orders of suspension until entry of a further order herein, pursuant to R. S. 33:1-31.

Transcripts of the separate proceedings before respondent were submitted in evidence at the hearing herein and additional testimony was presented in accordance with Rule 8 of State Regulations No. 15.

Appellants in their petitions allege in substance that the action of respondent in each case was erroneous in that the finding of guilt was contrary to the weight of evidence.

Respecting charge 1, it appears from the record that appellants permitted Barbara ---, aged 17, to serve sandwiches on their licensed premises. She held no employment permit and received no pay. It also appears that appellants operated a bona fide restaurant in connection with their licensed tavern. Hence, the exception of Rule 3 of State Regulations No. 13 is applicable and respondent's finding of guilt on this charge is erroneous and will be reversed.

Respecting charge 2, the testimony of Ralph ---, aged 20, substantiated in part by the testimony of two other witnesses, is clear and convincing and I find that on four nights in January 1955, said minor consumed alcoholic beverages on appellants' licensed premises, which beverage was served by a bartender who did not comply with the requirements of R. S. 33:1-77, respecting written proof of the minor's age. The burden of establishing that respondent's action was erroneous and should be reversed rests with appellants. Rule 6 of State Regulations No. 15.

Appellants have failed to sustain this burden and the action of respondent with respect to charge 2 will be affirmed.

Accordingly, it is, on this 11th day of August 1955,

ORDERED that the action of respondent respecting charge 1, hereinabove referred to, be and the same is hereby reversed; it is further

ORDERED that the action of respondent respecting charge 2, hereinabove referred to, be and the same is hereby affirmed and the appeal thereon be and the same is hereby dismissed; and it is

ORDERED that the twenty-day suspension of appellants' Plenary Retail Consumption License C-1, for premises 6301 Dewey Avenue, West New York, imposed by respondent after a finding of guilt as to charge 2, be and the same is hereby restored and reimposed against appellants for the same premises to commence at 3:00 a.m. August 22, 1955, and to terminate at 3:00 a.m. September 11, 1955.

WILLIAM HOWE DAVIS
Director.

5. APPEAL CASES - JULY 1, 1953 THROUGH JUNE 30, 1955.

August 1, 1955

To: William Howe Davis, Director
From: Edward J. Dorton, Deputy Director.

Cases undecided June 30, 1953 -	9	
Cases filed for period July 1, 1953 through June 30, 1954 -	76	
Total -		85

<u>Disposition</u>		
Affirmed	38	
Reversed	18	
Remanded	3	
Modified	2	
Withdrawn	2	
Undecided (16 cases heard 6 cases not heard)	22	
Total -		85

Cases undecided June 30, 1954 -	22	
Cases filed for period July 1, 1954 through June 30, 1955 -	66	
Total -		88

<u>Disposition</u>		
Affirmed	40	
Reversed	23	
Remanded	2	
Modified	1	
Dismissed	1	
Withdrawn	4	
Undecided (13 cases heard 1 case partially heard 3 cases not heard)	17	
Total -		88

Edward J. Dorton
Deputy Director.

6. MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD NOT TO INVOLVE MORAL TURPITUDE UNDER FACTS OF THE CASE.

In the Matter of an Application)
to Remove Disqualification)
because of a Conviction, Pursuant)
to R. S. 33:1-31.2.)

CONCLUSIONS

Case No. 1237)
-----)

BY THE DIRECTOR:

On May 17, 1950, petitioner was sentenced to a county prison for a period of three months as a result of his plea of guilty to a charge of conspiracy to make book. This appears to be petitioner's only conviction.

Petitioner testified that he rented a telephone to another person for the purpose of permitting its use for accepting bets on horse races, commonly known as bookmaking.

The crime of commercialized gambling may or may not involve moral turpitude, depending on the circumstances in each case. Re Case No. 1018, Bulletin 956, Item 7. Where one is a principal or a "lieutenant" in commercialized gambling, particularly where such gambling is conducted on a large scale, it has been held that convictions for commercialized gambling involve moral turpitude. Re Case No. 635, Bulletin 946, Item 10; Re Case No. 641, Bulletin 963, Item 5. However, in the instant case petitioner was neither a principal nor a "lieutenant". On the contrary, he merely permitted his telephone to be used by another for bookmaking. Under the circumstances, I conclude that the crime of which petitioner was convicted does not involve moral turpitude. Re Case No. 645, Bulletin 987, Item 8; Re Case No. 654, Bulletin 1031, Item 11.

It appearing that petitioner has never been convicted of a crime involving moral turpitude, no order removing disqualification because of the aforesaid conviction is required. Re Case No. 1068, Bulletin 980, Item 7.

WILLIAM HOWE DAVIS
Director.

Dated: August 10, 1955.

7. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - MOTOR VEHICLE AND ALCOHOL ORDERED FORFEITED.

In the Matter of the Seizure on)
 May 2, 1955, of a pint bottle of)
 alcohol and a Buick sedan at the)
 intersection of Verona and Franklin)
 Avenues, in the City of Pleasant-)
 ville, County of Atlantic and State)
 of New Jersey.)

Case No. 8877

ON HEARING
 CONCLUSIONS AND ORDER

 Harry Leong, Pro Se.

I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether a pint bottle of alcohol, and a Buick sedan, registered in the name of Wong Yow, described in a schedule attached hereto, seized on May 2, 1955 at the intersection of Verona and Franklin Avenues, Pleasantville, New Jersey, constitute unlawful property and should be forfeited.

A local police officer halted the motor vehicle on the above date and location because it was being operated in a reckless manner. The officer discovered that the driver, Harry Leong, did not hold a driver's license, and observed a bottle of alcohol on the front seat alongside of Leong. The bottle did not have thereon a label or stamp indicating the payment of tax on alcoholic beverages. The officer thereupon took into custody the alcohol, motor vehicle and Leong. Later the alcohol and motor vehicle were turned over to ABC agents.

The contents of the pint bottle was analyzed by the Division chemist, who reports that it is alcohol and water fit for beverage purposes with an alcoholic content by volume of 42 per cent.

When the matter came on for hearing, pursuant to R. S. 33:1-66, an appearance was entered by Harry Leong, who sought return of the motor vehicle. It was difficult for him to fully express himself because of his unfamiliarity with the English language. His stepdaughter assisted him to some extent in trying to overcome his difficulty. Leong claims that he borrowed the car from his friend, Wong, and that he (Leong) did not know that the pint bottle was in the car. It is highly improbable that he did not see the bottle by his side on the seat. In any event, it finally developed that the costs of seizure and storage exceeded the value of the 13-year-old car, and therefore Leong stated that he would not pay such costs under any circumstances.

The alcohol is illicit because of the absence of a label or tax stamp on the bottle. R.S. 33:1-1(i), R.S. 33:1-88. Such illicit alcohol, and the motor vehicle in which it was transported and found constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

It is not necessary to make a specific determination that Harry Leong's application for return of the motor vehicle should be denied, since he has in effect withdrawn any such claim upon being advised that even if successful he would be required to pay the costs of seizure and storage of the car. R. S. 33:1-66.

Accordingly, it is DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" attached hereto,

constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66, and that it be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
Director.

Dated: August 10, 1955:

SCHEDULE "A"

- 1 - pint bottle of alcoholic beverage
- 1 - Buick sedan, Serial No. 14293979,
N. J. Registration AIV35

8. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against)

JOHN C. DeLUCA and FRANK GOWASKA)
T/a PINE TREE INN)
Springfield Avenue & Snyder Avenue)
Berkeley Heights, N. J.,)

CONCLUSIONS AND ORDER

-----)
Holders of Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Berkeley Heights.)

-----)
Camarata and Colonna, Esqs., by Michael T. Colonna, Esq., Attorneys for Defendant-licensees. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to a charge alleging that on April 27, 1955, they sold, served and delivered an alcoholic beverage to a minor and permitted the consumption of such beverage by said minor in and upon their licensed premises, in violation of Rule 1 of State Regulations No. 20.

The minor, Edward J. ---, testified at the hearing herein that he was born July 25, 1934, and was 20 years of age on the dates alleged in the above charge; that at about 1:15 a.m. April 27, 1955, he and an adult companion patronized defendants' tavern and that therein he consumed a bottle of beer served to him by a bartender who made no inquiry respecting his age. The adult companion corroborated Edward's testimony as to the time, place and service of the alcoholic beverage and two other adults testified that they greeted the aforesaid minor in defendants' tavern at the time in question. An ABC agent testified that, on May 9, 1955, Edward directed him, another agent and a local police officer to defendants' licensed premises and identified it as the place wherein he had been served the alcoholic beverage. The agent further testified that the minor was unable to identify the person who served him.

Defendants appeared and testified that they never saw the minor prior to the time they confronted him on May 9, 1955, and they denied that the minor identified their licensed premises at the time. A bartender who testified he was on duty at the

time alleged in the charge, denied that the minor was then on the licensed premises. However, he admitted that the three adults referred to above were present during his tour of duty, with another unknown male whose description, as he testified respecting it, was in all respects dissimilar to that of the minor.

Before putting in his defense and again at the close of the hearing, counsel for defendants moved for a dismissal of the charge contending that there was no competent proof of the minor's age and that the proof offered by the Division was insufficient to sustain its case.

The Hearer reserved decision on the motion for my consideration, tentatively ruling that the testimony of a minor himself is legally sufficient to establish his age. The following cases were cited in support of the principle: State v. Huggins, 83 N.J.L. 43; State v. Koettgen, 89 N.J.L. 678; State v. Girone, 91 N.J.L. 498. See also Hancock v. Catholic, etc., 69 N.J.L. 308; State v. Andoloro, 108 N.J.L. 47. I concur in the ruling of the Hearer.

Respecting the sufficiency of proof, the testimony of the Division's witnesses establishes to my satisfaction that the minor was served and was permitted to consume an alcoholic beverage in the licensed premises. These facts constitute a "sale" as defined by R.S. 33:1-1(w). The inability of the minor to identify the specific person who made the "sale" is not fatal in disciplinary proceedings against the licensees. Re La Corte, Bulletin 469, Item 1; Re Cohen, Bulletin 495, Item 6; Re Dante, Bulletin 771, Item 9.

Having carefully considered all of the facts and circumstances herein, I find defendants guilty as charged.

Since the defendants have no previous adjudicated record and it appearing that there are no aggravated circumstances, I shall suspend their license for ten days, the usual penalty imposed for sale of intoxicating beverages to a 20-year-old minor. Re Brazinski, Bulletin 948, Item 7.

Accordingly, it is, on this 15th day of August, 1955,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Berkeley Heights to John C. DeLuca and Frank Gowaska, t/a Pine Tree Inn, for premises Springfield Avenue and Snyder Avenue, Berkeley Heights, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. August 22, 1955, and terminating at 2:00 a.m. September 1, 1955.

WILLIAM HOWE DAVIS
Director.

9. DISCIPLINARY PROCEEDINGS - SLOT MACHINES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 COPPER HILL GOLF CLUB
 Copper Hill
 Raritan Township
 PO Flemington, N. J.,
 Holder of Club License CB-1, issued by the Township Committee of the Township of Raritan (Hunterdon County).
 -----)

CONCLUSIONS AND ORDER

Herr and Fisher, Esqs., by Lloyd Fisher, Esq., Attorneys 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 charge:

"On January 22, 1955, you allowed, permitted and suffered your licensed premises to be used in furtherance and aid of and in connection with an illegal activity or enterprise resulting in a conviction in a criminal prosecution in that three slot machines were maintained on an unlicensed portion of your licensed building accessible from the licensed portion, with respect to which machines you were convicted on or about June 10, 1955 in the County Court of Hunterdon County, Law Division [Criminal] of the crime of possessing the aforementioned slot machines contrary to N.J.S. 2A:112-2; in violation of Rule 4 of State Regulations No. 20."

The file herein discloses that on January 22, 1955 an ABC agent, in the course of a routine inspection, found three workable slot machines in an unlicensed room of the building in which defendant's licensed premises are located. The said room was readily accessible to the licensed premises.

On June 10, 1955, defendant entered a plea of non vult in a county court to a charge of possessing slot machines and was fined \$100.00.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of ten days, Re North Jersey Country Club, Inc., Bulletin 955, Item 6, and remit five days for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 11th day of August, 1955,

ORDERED that Club License CB-1, issued by the Township Committee of the Township of Raritan (Hunterdon County) to Copper Hill Golf Club, for premises Copper Hill, Raritan Township, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. August 22, 1955, and terminating at 2:00 a.m. August 27, 1955.

WILLIAM HOWE DAVIS
 Director.

10. DISCIPLINARY PROCEEDINGS -- SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against PAULA'S RINGSIDE CAFE, INC. 591 Summit Avenue Jersey City, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-200 for the 1954-55 and 1955-56 licensing years, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Ralph P. Messano, Esq., Attorney for Defendant-licensee. Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on Sunday, June 12, 1955, it sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that at 12:10 a.m. on Sunday, June 12, 1955, an ABC agent asked a bartender in defendant's licensed premises for six cans of beer. The bartender at first refused because it was "after 10 o'clock". However, when the agent stated that he had previously visited the premises, the bartender said he would get it ready. When this agent and two other ABC agents were leaving the premises at 12:15 a.m., the bartender handed a paper bag containing six cans of beer to the first agent and accepted payment for the beer. The agent left with the package but returned at once with the other agents, and all agents then identified themselves to the bartender, who verbally admitted making the sale.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of fifteen days (Re DeLorenzo, Bulletin 1060, Item 7). Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 16th day of August, 1955,

ORDERED that Plenary Retail Consumption License C-200, issued for the 1955-56 licensing year by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Paula's Ringside Cafe, Inc., for premises 591 Summit Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. August 29, 1955, and terminating at 2:00 a.m. September 8, 1955.

WILLIAM HOWE DAVIS Director

11. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ADOLPH SILVERMAN)
542 Newark Avenue)
Jersey City 6, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-150, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

-----)
Adolph Silverman, Defendant-licensee, Pro se.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to the following charge:

"On Sunday, June 26, 1955, at about 3:15 P.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., one quart bottle of Manischewitz Sacramental Wine, Concord Grape Wine, at retail, in its original container for consumption off the licensed premises; in violation of Rule 1 of State Regulations No. 38."

The file herein discloses that on Sunday, June 26, 1955 at about 11:55 a.m., ABC agents observed what appeared to be the delivery at and removal from the licensed premises of six cans of beer for off-premises consumption. At about 3:10 p.m. the agents observed one Addison Dederick enter the licensed premises. One of the agents followed him and took a seat at the bar alongside Dederick. At 3:15 p.m. this agent observed Dederick purchase from Louis Levine, the bartender, a quart bottle of Manischewitz Sacramental Wine, for \$1.29. Levine placed the bottle of wine in a paper bag and placed the bag underneath the bar. Dederick had another drink and then indicated to Levine that he was about to leave. Thereupon, Levine handed the bag with the bottle of wine to Dederick, who then left the licensed premises, followed by the agent. Dederick was halted by the agent, who disclosed his identity to him, and returned with him to the licensed premises. Both Levine and Dederick acknowledged the sale and purchase of the bottle of wine in the manner and at the time above described.

Defendant has no prior adjudicated record. I shall suspend his license for the minimum period of fifteen days. Re Thurz, Bulletin 1070, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 16th day of August, 1955,

ORDERED that Plenary Retail Consumption License C-150, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Adolph Silverman, 542 Newark Avenue, Jersey City, be and the same is hereby suspended for a period of ten (10) days commencing at 2:00 a.m. August 22, 1955, and terminating at 2:00 a.m. September 1, 1955.

WILLIAM HOWE DAVIS
Director.

12. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
THE NEW VILLAGE TAVERN, INC.
T/a RIP'S NEW VILLAGE CAFE
935-37-39 Jackson Street
Camden, N. J.,

CONCLUSIONS AND ORDER.

Holder of Plenary Retail Consumption License C-198, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

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

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on June 11, 1955, it sold, served and delivered alcoholic beverages to two minors, and permitted the consumption of such beverages by said minors, in and upon its licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that, according to the report of Officer Joel White of the Camden Police, he entered defendant's licensed premises on Saturday night, June 11, 1955, at about 11:15 p.m. and observed a minor drinking alcoholic beverages there. Officer White took the drink from the minor and instructed him to leave the premises.

The file further discloses that subsequently it developed that two minors were involved in the incident, such minors being William ---, Jr. (age 16) and James --- (age 18). ABC agents obtained signed statements from these minors wherein it appears that a waitress served the two minors with two bottles of beer on June 11 at defendant's licensed premises; that the beer was purchased by one of the minors; that Officer White observed the two minors with the beer and they left the premises at his direction, and that the waitress did not question either of the minors as to his age.

Defendant has no prior adjudicated record. The minimum penalty for sale and service of alcoholic beverages to a sixteen-year-old minor is a suspension of the license for a period of twenty days where the offense is not aggravated (Re O'Brien & Cronin, Bulletin 1052, Item 6; cf. Re Schmid, Bulletin 1068, Item 5). Hence, under the circumstances of this case I shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 16th day of August, 1955,

ORDERED that Plenary Retail Consumption License C-198, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to The New Village Tavern, Inc., t/a Rip's New Village Cafe, for premises 935-37-39 Jackson Street, Camden, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. August 22, 1955, and terminating at 2:00 a.m. September 6, 1955.

WILLIAM HOWE DAVIS
Director.

13. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against)
)
 BROOKSIDE LODGE, INC.)
 T/a THE OLDE LOG CABIN)
 North side of Valley Road)
 Passaic Township)
 P.O. Stirling, N. J.,)
)
 Holder of Plenary Retail Consumption License C-8, issued by the)
 Township Committee of the Township)
 of Passaic.)

CONCLUSIONS AND ORDER

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

BY THE DIRECTOR:

Defendant pleaded not guilty to a charge alleging that on April 27, 1955, it sold, served and delivered alcoholic beverages to a minor and permitted the consumption of such beverages by said minor in and upon its licensed premises in violation of Rule 1 of State Regulations No. 20.

The minor, Edward J. ---, testified at the hearing herein that he was born July 25, 1934 and was 20 years of age on the dates alleged in the above charge; that he and an adult, Peter Mattioli, entered defendant's licensed premises about 11:00 p.m. April 26th and departed about 1:00 a.m. April 27, 1955; that during their stay he consumed four glasses of beer served to him by a female bartender who made no inquiry as to his age.

Mattioli corroborated Edward's testimony as to the time, place and service of the alcoholic beverages and an ABC agent testified that on May 9, 1955, Edward directed him, another agent and a local police officer to defendant's licensed premises and pointed it out as the place wherein he had been served alcoholic beverages and therein identified Lorraine Murphy as the person who had served him.

The defendant failed to produce Lorraine Murphy and relied principally upon the testimony of Louis Pavao who, in substance, testified that he was on duty as bartender on the dates alleged in the above charge; that he served a beer to Mattioli and "cokes" to Edward; that Lorraine Murphy, a friend of the owner, was behind the bar four or five times on the night of April 26, 1955 and that she served drinks to herself and to a waitress employed by defendant who was off duty and seated at the bar. Pavao and the waitress denied that Lorraine Murphy served any drinks to Edward and the waitress testified that she was at the far end of the bar conversing with Lorraine and saw Pavao serve Edward a "coke".

I have given careful consideration to the testimony elicited from all of the witnesses as well as the argument presented by defendant's counsel and I am satisfied that the Division has established by a fair preponderance of the believable evidence that the minor was served and was permitted to consume alcoholic beverages in and upon the licensed premises. I find the defendant guilty as charged.

Since the defendant has no previous adjudicated record and it appearing that there are no aggravated circumstances, I shall suspend its license for ten days, the usual penalty imposed for sale of intoxicating beverages to a 20-year-old minor.
Re Brazinski, Bulletin 948, Item 7.

Accordingly, it is, on this 15th day of August, 1955,

ORDERED that Plenary Retail Consumption License C-8, issued by the Township Committee of the Township of Passaic to Brookside Lodge, Inc., t/a The Olde Log Cabin, for premises North side of Valley Road, Passaic Township, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. August 22, 1955, and terminating at 2:00 a.m. September 1, 1955.

WILLIAM HOWE DAVIS
 Director.

14. STATE LICENSES - NEW APPLICATIONS FILED.

The Barry Wine Company, Inc.
 54 Park Place
 New York, N. Y.

Application filed August 23, 1955 for Wine Wholesale License.

McKesson & Robbins, Incorporated
 214 Main Street
 Hackensack, N. J.

Application filed August 23, 1955 for person-to-person and place-to-place transfer of Plenary Wholesale License W-49 from McKesson Imports, Inc., 759 Summer Avenue, Newark, N. J.

Langer Transport Corp.
 Route 1 and Danforth Avenue
 Jersey City, N. J.

Application filed August 26, 1955 for Transportation License.

Lawrence Warehouse Company
 18 Mellon Street
 Trenton, N. J.

Application filed August 26, 1955 for Public Warehouse License.

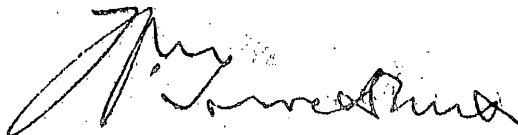
Marlboro Industries, Ltd.
 104 Western Avenue
 Marlboro, N. Y.

Application filed August 26, 1955 for Transportation License.

Joseph Cohen and Robert Dickman
 t/a Lake Beverage Distributors
 Rear 95 West Main Street
 Denville, N. J.

Application filed August 29, 1955 for State Beverage Distributor's License.

New Jersey State Library



William Howe Davis
 Director.