

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1598

January 25, 1965

TABLE OF CONTENTSITEM

1. STATE REGULATIONS - REGULATION NO. 39 - NOTICE OF INCREASE OF FEES FOR PERMITS IN LIEU OF DISCIPLINARY PROCEEDINGS.
2. STATE REGULATIONS - REGULATION NO. 39 - REGULATION NO. 6 - NOTICE OF HEARING ON SUGGESTED AMENDMENTS.
3. COURT DECISIONS - D'AMICO, et al. v. BLANCK, et al - PETITION FOR CERTIFICATION DENIED.
4. APPELLATE DECISIONS - BLANCK and SOUTH JERSEY RETAIL LIQUOR STORE ASSOCIATION v. MAGNOLIA and D'AMICO.
5. APPELLATE DECISIONS - JERSEY CITY TAVERN OWNERS ASSOCIATION v. JERSEY CITY and F. ROSTEK, INC.
6. DISCIPLINARY PROCEEDINGS (South River) - GAMBLING (HORSE RACE BETS)-LICENSE SUSPENDED FOR 60 DAYS.
7. DISCIPLINARY PROCEEDINGS (Atlantic City) - ORDER REIMPOSING SUSPENSION AFTER WITHDRAWAL OF APPEAL TO APPELLATE DIVISION.
8. DISCIPLINARY PROCEEDINGS (Newark) - GAMBLING (NUMBERS BETS) - CHARGES DISMISSED.
9. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE DURING PROHIBITED HOURS - FAILURE TO AFFORD INTERIOR VIEW - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.
10. ACTIVITY REPORT FOR DECEMBER 1964.
11. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE DURING PROHIBITED HOURS - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
12. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1598

January 25, 1965

1. STATE REGULATIONS - REGULATION NO. 39 - NOTICE OF INCREASE OF FEES FOR PERMITS IN LIEU OF DISCIPLINARY PROCEEDINGS.

TO ALL MANUFACTURERS AND WHOLESALERS (B, BL, SBD, V, VL, S, SL, R, W, WL AND WW LICENSEES):

In the administration of State Regulation No. 39 (extension of credit by manufacturers and wholesalers to retail licensees), with few exceptions the Division has issued special permits in lieu of the institution of disciplinary proceedings for violations of the Regulation. Unfortunately, the issuance of these special permits has not been a deterrent to further violations as expected. The number of default or payment notices reported beyond the permissive period has shown very little decrease and the number of deliveries made on credit to retail licensees appearing on the default list, at the time of delivery, apparently has not diminished. It is my opinion that these violations occur mainly because of neglect or carelessness on the part of licensees or their employees and could be eliminated with proper precaution.

It has been the policy of the Division to issue permits in lieu of disciplinary proceedings for a violation of Rule 4(a) at a fee of \$25.00 for each illegal delivery; for violation of Rule 5 (b or d) at a fee of \$5.00 for each notice reported to the Division subsequent to the permissive period and for violations of Rule 5 (b or d) at a fee of \$10.00 for each instance when notices were not forwarded to the Division.

These fees were established many years ago at a time when economic conditions and other factors did not warrant a greater charge. Since then however, there has been a marked increase in the operating costs incident to the processing of these permits with the consequent result that the Division cannot continue to charge the same fee established years ago without a continuing loss to the State. The time consumed by office and investigative personnel before actual issuance of the permit warrants an increase in the fee charged.

Accordingly, after having given careful study to the matter, I have determined that a fair fee for permits for a violation of Rule 4(a) (delivery to a retailer listed in default) shall be \$50.00 instead of \$25.00; for a violation of Rule 5 (b or d) (default or payment notices reported late to the Division) shall be \$10.00 instead of \$5.00 and for violation of Rule 5 (b or d) (default or payment not reported to the Division) shall be \$20.00 instead of \$10.00, all increases to become effective with respect to violations occurring after January 1, 1965.

You are placed on notice however, that the fees set forth above will be charged ordinarily only in unaggravated cases. It is discretionary with the Director to increase any of the fees or to institute disciplinary proceedings without option to make application for special permit.

Dated: December 7, 1964

JOSEPH P. LORDI  
DIRECTOR

2. STATE REGULATIONS - REGULATION NO. 39 - REGULATION NO. 6 -  
NOTICE OF HEARING ON SUGGESTED AMENDMENTS.

EXTENSION OF CREDIT BY MANUFACTURERS AND  
WHOLESALEERS TO RETAIL LICENSEES

SUGGESTED AMENDMENTS - NOTICE

The New Jersey Wine and Spirit Wholesalers Association has suggested amendments (see below) to existing State Regulations No. 39 and 6 which, if adopted, would provide that

- (1) Retail licensees continuously on the Default List for a period of six months after June 30, 1965 could not purchase or accept delivery of any alcoholic beverage from any supplier until such default had been paid and that no supplier could sell or deliver to such retailer until the indebtedness had been paid in full;
- (2) Upon the transfer of the license of any licensee on the Default List, the indebtedness upon which the default was based would continue and the transferee would be placed on the Default List;
- (3) Upon application for transfer of a retail license, a copy of the application, together with an affidavit of the transferor listing his entire indebtedness to each supplier, would be filed with the Director at or before the first insertion of the advertisement.

A public hearing on the suggested amendments will be held on Wednesday, February 24, 1965, commencing at 10:00 a.m., in Room 214 (second floor), 1100 Raymond Boulevard, Newark, N. J., at which all interested persons will be afforded an opportunity to express their views with respect thereto.

It would be helpful if those who plan to attend and all those who desire to be heard would send promptly written notice of such plan or such desire to Director, Division of Alcoholic Beverage Control, 1100 Raymond Boulevard, Newark, N. J. 07102.

JOSEPH P. LORDI  
DIRECTOR

SUGGESTED AMENDMENTS

REGULATION NO. 39

Rule 4. New paragraphs (c) and (d) to be added as follows:

- "(c) No retail licensee who shall be in default and so designated on the official Default List and shall continue to be listed as in default for a period of six months after June 30, 1965 shall purchase or accept delivery of any alcoholic beverages from any supplier until such default shall have been corrected by payment in cash, nor shall any supplier sell or deliver to such retailer upon any terms or conditions until the indebtedness has been eliminated by full payment in cash.
- "(d) Upon transfer of the retail license by any licensee on default as set forth in this regulation, and the



4. APPELLATE DECISIONS - BLANCK and SOUTH JERSEY RETAIL LIQUOR STORE ASSOCIATION v. MAGNOLIA and D'AMICO.

HORACE W. BLANCK and ANGELA V. )  
BLANCK, t/a BLANCK'S LIQUOR STORE, )  
and the SOUTH JERSEY RETAIL LIQUOR )  
STORE ASSOCIATION, )

Appellants, )

v. )

MAYOR AND COUNCIL OF THE BOROUGH OF )  
MAGNOLIA, and HARRY R. and CATHARINE )  
D'AMICO, t/a D'AMICO LIQUORS, )

Respondents. )

ON APPEAL  
SUPPLEMENTAL  
ORDER

-----  
Richman, Berry & Ferren, Esqs., by Grover C. Richman, Jr., Esq.,  
and Edwin T. Ferren III, Esq., Attorneys for Appellants.

No appearance on behalf of Respondent Mayor and Council.

Norman Heine, Esq., Attorney for Respondents Harry R. and  
Catharine D'Amico.

BY THE DIRECTOR:

By Supplemental Order dated November 9, 1964, it was  
ordered that the current license granted to respondents D'Amicos  
be cancelled effective immediately. Blanck v. Magnolia,  
Bulletin 1592, Item 2.

Prior to the effectuation of the cancellation order, the  
Appellate Division of the Superior Court stayed its mandate on  
affirmance (on which the order of November 9th was based)  
pending the final determination by the Supreme Court of a  
petition for certification.

By Order dated December 1, 1964, the Supreme Court ordered  
that the petition be denied. D'Amico et al. v. Blanck et al.,  
43 N.J. 358; Bulletin 1598, Item 2. Copy of the order denying  
the petition having been received today, the order may now be  
reentered.

Accordingly, it is, on this 3d day of December, 1964,

ORDERED that the current Plenary Retail Distribution  
License D-1, issued by the Mayor and Council of the Borough of  
Magnolia to Harry R. and Catharine D'Amico, t/a D'Amico Liquors,  
for premises 200 S. White Horse Pike, Magnolia, be and the same  
is cancelled, effective immediately.

JOSEPH P. LORDI  
DIRECTOR

5. APPELLATE DECISIONS - JERSEY CITY TAVERN OWNERS ASSOCIATION v. JERSEY CITY and F. ROSTEK, INC.

JERSEY CITY TAVERN OWNERS )  
ASSOCIATION, et als., )

Appellants, )

v. )

MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY )  
OF JERSEY CITY, and F. ROSTEK, )  
INC., )

Respondents. )

ON APPEAL  
CONCLUSIONS  
AND ORDER

-----  
James F. McGovern, Jr., Esq., Attorney for Appellants.  
Meyer Pesin, Esq., by Joseph S. E. Verga, Esq., Attorney for  
Respondent Municipal Board  
James F. Ryan, Esq., Attorney for Respondent F. Rostek, Inc.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This is an appeal from the action of respondent Board in granting a place-to-place transfer of the plenary retail consumption license held by respondent licensee F. Rostek, Inc., from premises 579 Grove Street to premises 374 Newark Avenue, Jersey City.

Appellants in their petition of appeal allege, among other things, that (1) the amendment to the distance-between-premises ordinance was adopted by the municipality to accommodate respondent licensee, (2) no need exists for a liquor license in the proposed area, and (3) respondent Board abused its discretion, acted arbitrarily and unreasonably and was mistaken in law and fact.

Respondents' answers deny the allegations in appellants' petition of appeal.

I shall first consider the amendment to the distance-between-premises ordinance as approved November 19, 1963. Section 4 of the ordinance, until the adoption of the aforesaid amendment, provided, inter alia, that no consumption license may be transferred to other premises within 750 feet of premises similarly licensed except that the Board may in its discretion transfer a license to other premises within 500 feet of the licensed premises to be vacated if the licensee shall be compelled to vacate "for any reason" that in the opinion of the Board was not caused by any action on the part of the licensee.

The amendment in question (Section 4(a)) provides:

"Whenever any municipal, county, state or federal government or agency acquires any property in accordance with law, which results in or causes holders of plenary retail consumption or distribution licenses to vacate their premises thereby, the said

licensees may make application to the Board of Alcoholic Beverage Control of Jersey City for a transfer of their respective licenses, and said board shall, in its discretion, grant the transfer of such license hereunder; provided that said licensee shall locate elsewhere and within a radius of four thousand (4,000) feet from the premises which said licensee has been or may be compelled to vacate."

The undisputed evidence adduced herein establishes the distance between respondent licensee's former premises at 579 Grove Street and its present premises at 374 Newark Avenue to be approximately 3,100 feet; that on February 28, 1964, the site of the former premises was acquired by the Jersey City Redevelopment Agency (a municipal agency) by virtue of a "Declaration of Taking;" that on April 3, 1964 (after four hearings in the matter) the transfer of the license to 374 Newark Avenue was approved by respondent Board; that there is at least one plenary Retail consumption license issued and outstanding within 750 feet of respondent licensee's new location.

There is no evidence in the record herein to substantiate appellants' allegation that the amendment to the ordinance in question was approved by the governing body to favor respondent licensee.

Appellants, in an attempt to show no need or necessity for a liquor outlet in the area in which the license was sought, called as their witness Raymond H. Means, a police detective assigned to the local issuing authority. Officer Means testified that the area in question is not residential but, rather, industrial in character. If a municipal policy has been adopted that liquor licenses should not be issued to premises close to industrial plants, if uniformly applied it is valid. It has not been shown that Jersey City has adopted such a policy. United States Pipe & Foundry Co. v. Burlington et al., Bulletin 73, Item 6; Archbishop Thomas J. Walsh Tenant's Association v. Newark et al., Bulletin 1303, Item 3.

In this case respondent Board gave careful consideration to respondent licensee's application before it approved the transfer to the proposed site. It has long been established that the number of licenses which should be permitted in any particular area and the determination of whether or not a license will be transferred to a particular location are matters within the sound discretion of the issuing authority. The Director's function on appeal is not to substitute his opinion for that of the municipal issuing authority but, rather, to determine if proper cause exists for its determination and, if so, to affirm irrespective of his personal views. Rothman v. Hamilton, Bulletin 1091, Item 1; Food Fair Stores of New Jersey, Inc. v. Union, Bulletin 1129, Item 1; Grand Union Company v. West Orange, Bulletin 1155, Item 3. This view is stated more affirmatively in Ward v. Scott, 16 N.J. 16 (1954), where the Supreme Court dealt with an appeal from a zoning variance which had been granted by a municipality:

"Local officials who are thoroughly familiar with their community's characteristics and interests and are the proper representatives of its people, are undoubtedly the best equipped to pass initially on such applications for variance. And their determinations should not be approached with a general feeling of suspicion, for as Justice Holmes has properly admonished: 'Universal distrust creates universal incompetence.'  
Graham v. United States, 231 U.S. 474, 480, 34 S. Ct.

148, 151, 58 L. Ed. 319, 324 (1913). Where, as here, the application for variance has been given careful and conscientious consideration by the zoning board and the town council and has been acted upon by both of them in strict conformity with the procedural and substantive terms of the statute, the ultimate interests of effective zoning will be advanced by permitting the action of the municipal officials to stand, in the absence of an affirmative showing that it was manifestly in abuse of their discretionary authority."

The local Board may not be reversed by the Director unless he finds "the act of the board was clearly against the logic and effect of the presented facts." Hudson-Bergen County Retail Liquor Stores Ass'n. v. Hoboken, 135 N.J.L. 502, 511. Cf. Fanwood v. Rocco, 59 N.J. Super. 306, aff'd 33 N.J. 404.

There has been no evidence presented in the instant case to indicate that respondent Board was improperly motivated in its action or that its action was arbitrary or constituted an abuse of discretion.

After carefully considering all of the evidence, the exhibits and the memoranda filed by the attorneys for the respective parties, I conclude that appellants have failed to sustain the burden of proof in showing that the action of respondent Board was erroneous. Rule 6 of State Regulation No. 15.

For the reasons aforesaid, it is recommended that an order be entered affirming the action of the respondent Board and dismissing the appeal.

#### Conclusions and Order

No exceptions were taken to the Hearer's Report within the time limited by Rule 14 of State Regulation No. 15.

Having carefully examined the entire record herein, including the evidence adduced and exhibits introduced at the hearing, I concur in the Hearer's findings and conclusions and adopt his recommendation. I shall enter an order affirming respondent Board's action.

Accordingly, it is, on this 25th day of November 1964,

ORDERED that the action of respondent Municipal Board of Alcoholic Beverage Control of the City of Jersey City be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

JOSEPH P. LORDI  
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE BETS)  
LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against )  
 )  
 JEANNIE & SONNY'S NO. 3 CLUB, INC. )  
 t/a JEANNIE & SONNY'S NO. 3 CLUB, INC. ) CONCLUSIONS  
 3 Thomas Street ) AND ORDER  
 South River, N. J. )  
 Holder of Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of South River. )

-----  
 Pincus, Shamy & Sheehan, Esqs., by Jack Pincus, Esq., Attorneys for Licensee.  
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"On May 5, 6, 12 and 26, 1964, 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 Regulation No. 20."

In substantiation of the charge the Division offered the testimony of Walter T. Decker, Jr. as to the events of May 5, 6 and 12, 1964, and the testimony of Thomas P. Tyrrell concerning the incident of May 26, 1964. Both Decker and Tyrrell are New Jersey State Police officers.

Officer Decker's testimony may be summarized as follows: On May 5, at 12:05 p.m., he visited the licensed premises and sat at the bar. He described the physical appearance of the exterior and interior of the premises. Tending bar was Walter Krempecki, who admitted at the hearing that he was a fifty per cent. stockholder of the licensee corporation. A patron seated three stools away from Decker was reading the Morning Telegraph (a paper which concerns itself solely with horse racing); took out a slip of paper, placed the paper on the bar; wrote on the paper; took two dollars from his pants pocket; folded the slip of paper and money together; handed the slip of paper and the money to Krempecki, who placed them in his pants pocket. Krempecki then placed the Morning Telegraph under the bar.

As to the events of May 6, Officer Decker testified that he visited the licensed premises at 12:40 p.m. and sat at the bar. Krempecki was tending bar. Two patrons were seen examining the Morning Telegraph and the Armstrong Race Sheet (the latter being a paper devoted to giving accounts of horses running at various tracks). One of the men said, "Wild Weed running in the 2nd at the Big A looks like a good bet." With that, the man took a slip of paper from Krempecki, wrote on the paper, took two dollars from

his pocket and gave the paper and the money to Krempecki, who put them in his pocket. Shortly thereafter another man entered the premises, went to the area where the Morning Telegraph and the Armstrong Race Sheet were lying open on the bar, looked them over, received a slip of paper from Krempecki, wrote on the slip of paper and handed it and two dollars to Krempecki, who placed paper and money in his pants pocket. At approximately 1:15 p.m. Krempecki started to walk toward the back room, whereupon the patron said to Krempecki, "You got to two-thirty for that one. That one is at Garden State." Krempecki said, "I know. I better call all the action in now." After Krempecki dropped a coin in a wall telephone at the rear of the premises, the officer heard him say, "\$2 to win on Chary, 1st at Aqueduct. \$2 to win on Wild Weed, 2nd at Aqueduct." Then he heard, "6 across on Garden State. 2 and 2 at Aqueduct."

As to the occurrence on May 12, Officer Decker testified that he entered the licensed premises at 12:50 p.m. and again sat at the bar. Krempecki was tending bar. A patron three stools away was looking over the Morning Telegraph and said to Krempecki, "John Quincy and Studio look like good bets today. Give me a piece of paper, Sonny." Krempecki tore a slip of paper from a pad lying on the back bar and gave it to the patron. The patron wrote on the slip, took two dollars from his pants pocket and gave the slip and money to Krempecki, who in turn put them in his pocket. Shortly thereafter Officer Decker observed Krempecki take a few slips of paper out of his pocket, go to the telephone, make a telephone call and heard him say, "Love Dove, 2nd at Big A, 2 and 2. John Quincy, 1st at Big A," and could not hear the rest because a patron played a record in the juke box.

On cross examination Officer Decker testified to substantially the same effect.

Officer Tyrrell testified that he visited the licensed premises on May 26 at 12:30 p.m., identified himself to Walter Krempecki who was tending bar, showed Krempecki a search warrant and proceeded to search him. The search produced money from one pocket, together with an issue of the Armstrong daily for that date, and from another pocket two slips of paper which were introduced in evidence. The officer testified that the first slip contained writings pertaining to horse race betting, including a daily double and a reverse bet for that date at Garden State, and the second slip contained writing indicating horse race betting at Yonkers.

In its defense, Krempecki, testifying in behalf of the licensee, claimed that he never saw Officer Decker in the licensed premises at any time and denied that he ever took bets and called them over the telephone; that on May 26, 1964, he was going to the Garden State Track but was prevented from doing so by Officer Tyrrell's appearance at the tavern; that the first slip was in the handwriting of a patron, Emery Sipos, who wanted him to play the horses at the track; that, although Sipos was going to the track with him that day, something intervened and, therefore, Sipos wrote out the first slip; that the second slip, which was in his handwriting, represented names of horses he had bet on the evening before when he had gone to the Yonkers track with several patrons.

On cross examination Krempecki admitted that the legend "Re" written on the first slip (which also contained the names of various horses running at Garden State on May 26, 1964) meant a reverse bet and that there is no reverse bet window at the track. He claimed, however, that he could legally place a reverse bet at the track.

In the licensee's behalf Emery Sipos testified that he was a patron and identified the first slip as being in his handwriting. He gave it to Krempecki on May 26, 1964, because he could not keep an appointment to go to the track with him on that day.

In rebuttal the Division recalled to the witness stand Officer Tyrrell, who testified that a reverse bet could not be made through the pari-mutuel machines at the track and could only be made through an illegal bookmaker.

This proceeding presents a purely factual question.

The general rule in these cases is that the finding must be based on competent legal evidence and must be grounded on a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32 C.J.S. Evidence, sec. 1042. By a preponderance of the evidence is meant evidence which is of greater weight or more convincing than that which is offered in opposition. 32 C.J.S., sec. 1021 at p. 1051, and cases therein cited. Disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956); Hornauer v. Division of Alcoholic Beverage Control, 40 N.J. Super 501 (1956).

I had ample opportunity to judge the credibility of the witnesses and I am compelled to conclude that the officers' version of the material facts with reference to the occurrences at the licensee's place of business was credible and convincing.

After carefully reviewing the evidence, I conclude that the Division has established the truth of the charge herein by a fair preponderance of the evidence. I recommend that the licensee be found guilty of said charge.

The licensee has no prior adjudicated record of suspension of license. I recommend that the license be suspended for sixty days. Re Welches, Bulletin 1584, Item 5.

#### Conclusions and Order

No exceptions to the Hearer's Report were filed within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 28th day of December, 1964,

ORDERED that Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of South River to Jeannie & Sonny's No. 3 Club, Inc., t/a Jeannie & Sonny's No. 3 Club, Inc., for premises 3 Thomas Street, South River, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 a.m. Monday, January 4, 1965, and terminating at 2:00 a.m. Friday, March 5, 1965.

JOSEPH P. LORDI  
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING SUSPENSION AFTER WITHDRAWAL OF APPEAL TO APPELLATE DIVISION.

In the Matter of Disciplinary Proceedings against 500 CAFE, INC. t/a 500 CAFE 4-6-8-10 S. Missouri Avenue Atlantic City, N. J.

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-27, issued by the Board of Commissioners of the City of Atlantic City.

Angelo D. Malandra, Esq., Attorney for Licensee. Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On September 10, 1964, I entered Conclusions and Order herein suspending the license for sixty days for permitting indecent entertainment on the licensed premises. Re 500 Cafe, Inc, Bulletin 1584, Item 2.

Prior to the effectuation of the order of suspension, upon appeal filed, the Appellate Division of the Superior Court stayed the operation of the suspension until the outcome of the appeal.

On December 10, 1964, the appeal was withdrawn and dismissed by agreement, pursuant to R.R. 1:8-6, and immediate imposition of the penalty was requested. The suspension may now be reimposed.

Accordingly, it is, on this 10th day of December, 1964,

ORDERED that the sixty-day suspension heretofore imposed, and stayed during the pendency of proceedings on appeal, be reinstated against Plenary Retail Consumption License C-27, issued by the Board of Commissioners of the City of Atlantic City to 500 Cafe, Inc., t/a 500 Cafe, for premises 4-6-8-10 S. Missouri Avenue, Atlantic City, commencing at 7:00 a.m. Monday, December 14, 1964, and terminating at 7:00 a.m. Friday, February 12, 1965.

JOSEPH P. LORDI DIRECTOR

8. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - CHARGES DISMISSED.

In the Matter of Disciplinary Proceedings against )

JOSEPH MARCUS AND ISIDOR GABEL )  
329 Fifteenth Avenue )  
Newark, N. J. )

CONCLUSIONS AND ORDER

-----  
Holders of Plenary Retail Consumption License C-207, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )

Stein and Stein, Esqs., by Julius Stein, Esq., Attorneys for Licensee.

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

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Licensees pleaded not guilty to the following charges:

- "1. On July 13 and 15, 1964, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets in a lottery, commonly known as the 'numbers game'; in violation of Rule 7 of State Regulation No. 20.
- "2. On July 13 and 15, 1964, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game' to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

From the testimony of the Division agents and witnesses for the licensee, it is clear that numbers bets were made by the agents and accepted by a numbers writer on the licensed premises on the dates alleged. However, the testimony concerning the circumstances surrounding the placement and acceptance of the bets considered, it is my view that the totality of the evidence is insufficient to establish that the licensees "allowed, permitted and suffered" the acceptance of the bets as alleged. Since there appears to be a lack of the necessary preponderance of the evidence to find the licensees guilty of the charges, it must follow, and I so recommend, that the licensees be found not guilty and that the charges be dismissed.

Conclusions and Order

No exceptions to the Hearer's Report were filed with me within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.



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

ACTIVITY REPORT FOR DECEMBER 1964

10.

<b>ARRESTS:</b>		
Total number of persons arrested	-----	21
Licensees and employees	12	
Bootleggers	9	
<b>SEIZURES:</b>		
Motor vehicles - cars	-----	2
Stills - over 50 gallons	-----	2
- 50 gallons or under	-----	1
Alcohol - gallons	-----	60
Mash - gallons	-----	911
Distilled alcoholic beverages - gallons	-----	55.57
Wine - gallons	-----	240.23
Brewed malt alcoholic beverages - gallons	-----	62.97
<b>RETAIL LICENSEES:</b>		
Premises inspected	-----	720
Premises where alcoholic beverages were gauged	-----	619
Bottles gauged	-----	8,673
Premises where violations were found	-----	61
Violations found	-----	64
Unqualified employees	12	Other mercantile business
Application copy not available	12	Prohibited sign
Reg. #38 sign not posted	11	Other violations
Disposal permit necessary	7	16
<b>STATE LICENSEES:</b>		
Premises inspected	-----	5
License applications investigated	-----	13
<b>COMPLAINTS:</b>		
Complaints assigned for investigation	-----	415
Investigations completed	-----	369
Investigations pending	-----	233
<b>LABORATORY:</b>		
Analyses made	-----	111
Refills from licensed premises - bottles	-----	23
Bottles from unlicensed premises	-----	11
<b>IDENTIFICATION:</b>		
Criminal fingerprint identifications made	-----	9
Persons fingerprinted for non-criminal purposes	-----	225
Identification contacts made with other enforcement agencies	-----	168
Motor vehicle identifications via N.J. State Police teletype	-----	3
<b>DISCIPLINARY PROCEEDINGS:</b>		
Cases transmitted to municipalities	-----	10
Violations involved	-----	10
Sale during prohibited hours	6	Permitting brawl on premises
Sale to minors	3	1
Cases instituted at Division	-----	20
Violations involved	-----	38
Sale to minors	7	Failure to close prem. during proh. hrs.
Sale during prohibited hours	4	Possessing indecent matter
Possessing liquor not truly labeled	3	Aiding and abetting unlawful transp.
Retailer-to-retailer sales	3	Alc. bev. activity during lic. susp.
Permitting lottery activity on prem.	2	Purchase from improper source
Subst. alc. bev. other than ordered	2	Permitting hostesses on premises
Sale below filed price	2	Conducting business as a nuisance
Unauthorized transportation	2	Permitting foul language on prem.
Hindering investigation	2	Unqualified employees
Fraud in application	1	Failure to have copy of lic. appl.
		on premises
Cases brought by municipalities on own initiative and reported to Division	-----	23
Violations involved	-----	32
Sale to minors	11	Fraud and front
Sale during prohibited hours	4	Permitting immoral acty. on prem.
Hindering investigation	3	Permitting brawl on premises
Conducting business as a nuisance	2	Failure to afford view into prem.
Employing female bartender (local reg.)	2	during proh. hours
Failure to close prem. dur. proh. hrs.	2	Employment w/o ident. card (local reg.)
Permitting loitering on prem. by minors	1	Failure to have copy of license
Permitting lottery activity on prem.	1	appl. on premises
<b>HEARINGS HELD AT DIVISION:</b>		
Total number of hearings held	-----	35
Appeals	9	Seizures
Disciplinary proceedings	17	Tax revocations
Eligibility	7	1
<b>STATE LICENSES AND PERMITS ISSUED:</b>		
Total number issued	-----	1,213
Licenses	4	Social Affair permits
Solicitors' permits	27	Wine permits
Employment permits	200	Miscellaneous permits
Disposal permits	84	Transit insignia
		Transit certificates
<b>OFFICE OF AMUSEMENT GAMES CONTROL:</b>		
Licenses issued	99	24



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

In the Matter of Disciplinary Proceedings against )

CAMEO BOWLO CO., INC., 221-223 Ocean Avenue Jersey City, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-50, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

Alex R. DeSevo, Esq., Attorney for Licensee. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on November 12, 1964 it sold drinks of beer to three minors, one age 19 and two age 20, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Toth, Bulletin 1582, Item 12.

Accordingly, it is, on this 14th day of December 1964,

ORDERED that Plenary Retail Consumption License C-50, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Cameo Bowlo Co., Inc., for premises 221-223 Ocean Avenue, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Monday, December 21, 1964, and terminating at 2 a.m. Tuesday, January 5, 1965.

*Joseph V. Lordi*  
Joseph V. Lordi  
Director