

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

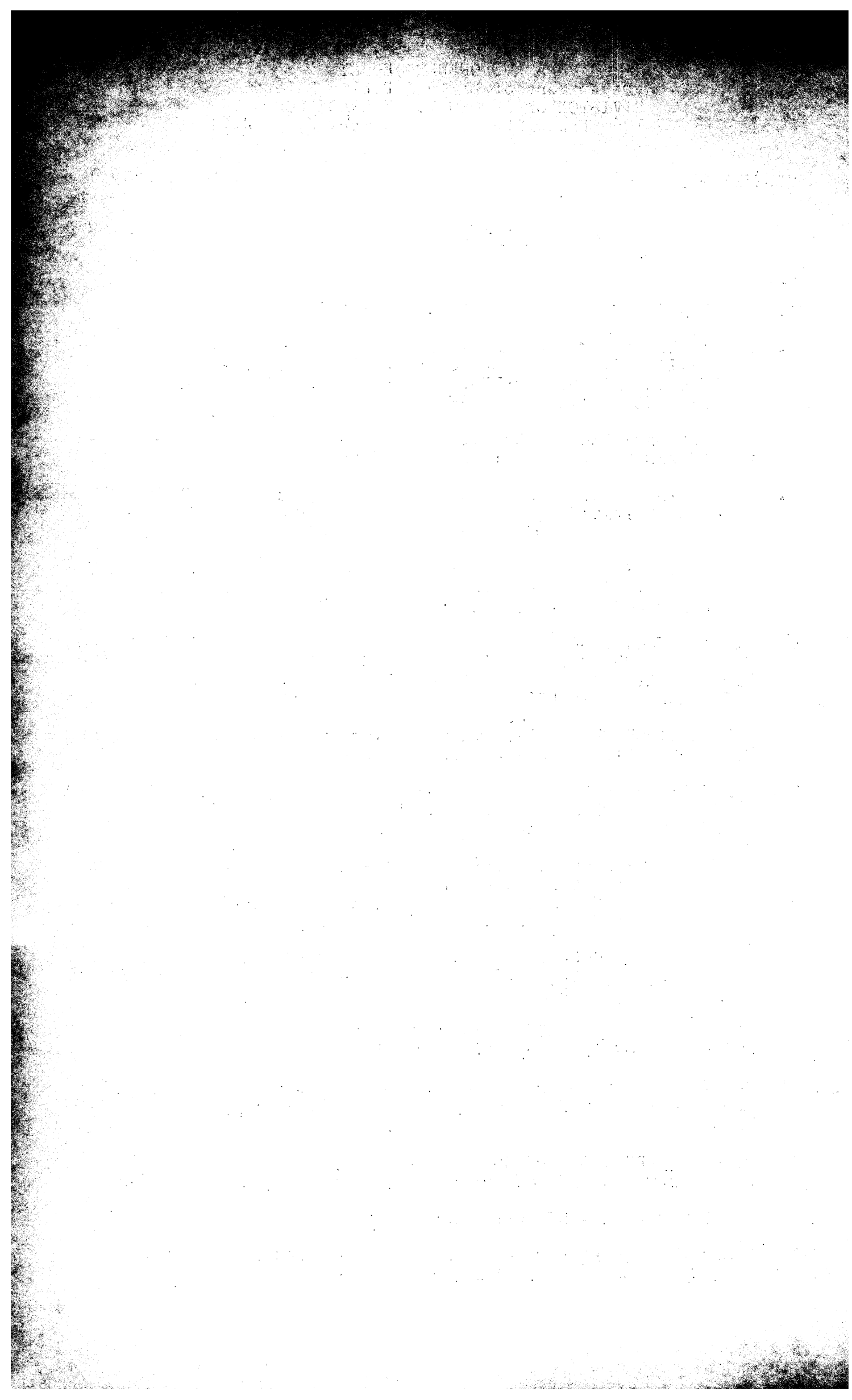
BULLETIN 913

July 26, 1951.

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1060 Broad Street Newark 2, N. J.

BULLETIN 913

July 26, 1951.

1. APPELLATE DECISIONS - TERRY v. WALLINGTON.

JAMES TERRY, )  
Appellant, )

-vs-

MAYOR AND COUNCIL OF THE )  
BOROUGH OF WALLINGTON, )  
Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

-----  
Grossman & Kampelman, Esqs., by Harry Kampelman, Esq., Attorneys  
for Appellant.

Joseph A. Banas, Jr., Esq., Attorney for Respondent.

Benjamin Wasserstrom, Esq. and Tulenko & Micklus, Esqs., by  
George Tulenko, Esq., Attorneys for Objectors.

BY THE DIRECTOR:

This is an appeal from the denial of an application to transfer a plenary retail consumption license from Theodore Pienta and Anna Satkowski to appellant, and from premises 9 Tuttle Street to premises 95 Main Avenue, Borough of Wallington.

The petition of appeal filed herein alleges that the denial of the application was erroneous because "It was abuse of the discretion in that the local issuing authority did not exercise reasonableness, but instead were arbitrary, unreasonable, biased, prejudiced, discriminatory and acted otherwise and in abuse of its discretionary power".

On May 7, 1951, at a meeting of the respondent Mayor and Council, consisting of the Mayor and six Councilmen, the Councilmen voted unanimously to deny the transfers for which application had been made.

The allegations of the appellant alleging bias, prejudice, and discrimination have not been sustained. No evidence was adduced herein which disclosed in any way whatsoever that the action of the members of the Borough Council resulted from anything but proper motives.

Appellant testified that he is the owner and operator of a milk bar, waffle shop and luncheonette located at 95 Main Avenue; that surrounding the building there is a parking area, approximately 65' x 100'; that at present the type of business operated by appellant attracts persons of all ages; that he proposes, in addition to service of alcoholic beverages in the building, to serve beer to persons who might wish to consume same while seated in their parked automobiles in the parking lot; that the neighborhood wherein the appellant's premises are located may be classified as semi-rural; that within 1,000 feet of appellant's premises there are 15 other establishments licensed to sell alcoholic beverages; that the most heavily trafficked intersection of the borough is located between 75 and 80 feet from appellant's premises; and that appellant's premises are approximately two-tenths of a mile distant from the premises to which the liquor license in question has heretofore been issued.

Three members of the Borough Council testified that they voted to deny the transfers applied for by appellant because in their opinion the present outlets for the sale of alcoholic beverages were

sufficient to meet the needs of the people and that no convenience would be served by an additional liquor license in the vicinity to which appellant seeks to transfer the license. The Councilmen also stated that two petitions were filed with them with names of persons objecting to the transfer of the license to the premises of appellant. The official minutes taken at the meeting on May 7, 1951, when the application for transfer was unanimously denied by the members of the Borough Council, read as follows:

"From James J. Terry, application for transfer to him for premises at 95 Main Avenue, the plenary retail consumption license C-7 heretofore issued to Theodore Pienta and Anna Satkowski for premises at 9 Tuttle Street, and from the said Theodore Pienta and Anna Satkowski, consent to such transfer. Mayor Koss asked whether there were any objections to this application and Borough Clerk Jacob Van Hook thereupon presented two communications requesting that transfer of a plenary retail consumption license to James Terry at 95 Main Avenue, Wallington, be denied. The first communication was from Joseph Rolek and 163 other 'property owners and citizens residing in Wallington' stating that there are no greater traffic hazards in the borough than exist in the area of 95 Main Avenue; that within the past twelve months two taverns within 200 feet of 95 Main Avenue closed their doors and that at present there are still a half dozen taverns, including two package stores, within a block of this zone, and that operating a light luncheonette and hot dog stand and serving alcoholic beverages on an open parking lot adjoining the building will expose our youth, who patronize milk bars and luncheonettes, to the harmful effects of open and indiscreet drinking. The other communication was from Andrew Hamas and 16 others, who have a total of 15 plenary retail consumption and/or package store licenses, who objected to a transfer of a plenary retail consumption license to James Terry at 95 Main Avenue on the grounds that present facilities are adequate to serve public convenience and necessity, that the area is serviced by several taverns and two package stores which have been established in this area for a long time, that within a year two taverns in this area closed because of over-congestion of liquor establishments and resulting poor business because of too keen competition; that with 47 licenses in a borough with a population of only 9,000 people, transfer of licenses from one neighborhood to another will result in chaotic conditions in this field and will depreciate the value of licenses and the buildings in which they are housed, and that the objectors have invested their life savings in their businesses and are entitled to protection against overcrowding in the neighborhood."

It is well settled that a municipal issuing authority in the exercise of its discretion may refuse to grant a transfer to premises in a neighborhood where, in its judgment, there are already ample facilities in being. Each case must, of course, stand upon its own merits. In the instant case, appellant seeks to transfer the license a distance of two-tenths of a mile from where it is presently located. By appellant's own admission, there are now 15 other licensed premises operating within a radius of 1,000 feet of his premises. The weight to be accorded petitions is entirely within the discretion of the issuing authority. Dunster v. Bernards, Bulletin 99, Item 1. The denial of appellant's application, under the circumstances, has not been shown to be unreasonable or arbitrary, and, therefore, respondent's action will be affirmed.

Accordingly, it is, on this 11th day of July, 1951,

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

ERWIN B. HOCK  
Director

2. DISCIPLINARY PROCEEDINGS - HINDERING INVESTIGATION - PERMITTING ACT OF VIOLENCE ON LICENSED PREMISES - LICENSEE WORKING IN LICENSED PREMISES WHILE ACTUALLY OR APPARENTLY INTOXICATED - LICENSE SUSPENDED FOR 45 DAYS.

In the Matter of Disciplinary Proceedings against

EBERHARD VOLLMER  
211 Locust Street  
Trenton 9, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-105 for the 1950-51 and 1951-52 licensing years, issued by the Board of Commissioners of the City of Trenton.

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Walter D. Cogle, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to the following charges:

"1. On April 30, 1951, while an inspector of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety was conducting an investigation at your licensed premises, you hindered and failed to facilitate such investigation; in violation of R. S. 33:1-35.

"2. On April 30, 1951, you allowed, permitted and suffered in and upon your licensed premises an act of violence, in that you struck with your hand an inspector of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulations No. 20.

"3. On April 30, 1951, you worked in and upon your licensed premises while actually or apparently intoxicated, in violation of Rule 24 of State Regulations No. 20."

An ABC agent testified that on April 30, 1951, he visited defendant's licensed premises for the purpose of making a routine inspection. Upon entering the premises he saw no one behind the bar, but observed four men in front of the bar, one of whom was upbraiding another for the latter's apparent inability to succeed in life. The ABC agent testified that within a short period thereafter, a man came from a rear room and walked behind the bar. The ABC agent made known his identity to this man who subsequently was identified as a bartender employed on the premises. The latter immediately walked to the center of the bar and addressed one of the four men present; thusly, "Here's an ABC inspector that would like to talk to you." In response thereto, the man who was talking when the agent entered the licensed premises, and later identified as defendant-licensee; made some disparaging remarks concerning the ABC agent. The agent thereupon walked over to the defendant-licensee, identified himself to him, and stated that he proposed to make a routine inspection. The defendant, according to the testimony of the agent, reiterated in foul language his dislike for the law-enforcement officer. The agent further testified that, as he was entering the telephone booth, defendant-licensee came toward him and "...took a punch at me with his fist; hit me on my right shoulder." The ABC agent made the telephone call to police headquarters and two police officers were dispatched to defendant's licensed premises. The ABC agent testified that after the police

officers arrived, defendant-licensee went behind the bar and poured some whiskey from a bottle, and, although he (the agent) warned him not to drink the whiskey, he, nevertheless, consumed the contents of the glass. The agent testified that based on the incoherency of speech of the defendant-licensee, his unsteady gait, his use of vile language, and general conduct, it was his opinion that the defendant was "under the influence of liquor".

The testimony of the two police officers was in substantial agreement with that of the agent concerning the insobriety of the defendant at the time in question. These officers furthermore testified concerning the incident wherein the whiskey was consumed by defendant-licensee over the protest of the agent.

The defendant-licensee testified on his own behalf that he has a serious heart condition and that at about four o'clock in the morning of the day in question he had an attack. He stated that the doctor advised that whenever he felt an attack coming on he should be given and permitted to consume a stimulant. Defendant furthermore testified that his condition affects his brain to a certain degree, and that his mind is not exactly clear, which prompts him to do things that he would not do under normal circumstances. The witness further testified that he attempted to stop the ABC agent from making a telephone call as he was under the impression that the agent was summoning a doctor, and that if a doctor were to be called he wanted the agent to call his own doctor.

Mrs. Rosina Engle, defendant's sister, corroborated the testimony of defendant in so far as his physical and mental condition was concerned. Furthermore, she also corroborated the fact that he had had an attack on the early morning of April 30, 1951.

Rose Marie Groves, a witness produced by defendant, although not present at the time in question, described the condition of defendant during a heart attack, as follows: "Well, I would say Mr. Vollmer is in a daze, dazed condition. He is at times easily agitated; other times very passive; he suffers loss of memory, and it may last a few hours and it may last only a short time."

Hugh James Young, another witness produced on behalf of defendant, stated that on one occasion he observed defendant during a heart attack stagger, and his attitude would become such that he would make various threats to any person with whom he might be engaged in conversation.

I am satisfied from the testimony presented herein that, at the time under consideration, the defendant was actually or apparently intoxicated. I find defendant guilty as charged. Under the circumstances, I shall suspend defendant's license for a period of forty-five days.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 17th day of July, 1951,

ORDERED that Plenary Retail Consumption License C-105, issued for the 1951-52 licensing period by the Board of Commissioners of the City of Trenton to Eberhard Vollmer, 211 Locust Street, Trenton, be and the same is hereby suspended for a period of forty-five (45) days, commencing at 2:00 a.m. July 23, 1951, and terminating at 2:00 a.m. September 6, 1951.

ERWIN B. HOCK  
Director.

3. DISCIPLINARY PROCEEDINGS - CONTRACEPTIVES - BOOKMAKING AND GAMBLING - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against )

WILLIAM MONAHAN )  
37 Ridge Road )  
Lyndhurst, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-14 for the 1950-51 and 1951-52 licensing years, issued by the Board of Commissioners of the Township of Lyndhurst. )

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

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge (2) alleging that he possessed upon his licensed premises a contraceptive device, in violation of Rule 9 of State Regulations No. 20; and not guilty to a charge (1) alleging that he engaged in and allowed, permitted and suffered bookmaking and gambling in and upon his licensed premises, in violation of Rule 7 of State Regulations No. 20.

With respect to charge (2), the contraceptive device referred to above was found on defendant's licensed premises in a drawer behind the bar. The regulation prohibits the possession of any contraceptive device on licensed premises.

With respect to charge (1), the licensee admitted that he had placed for his own account many horse racing bets on his licensed premises, mostly by telephone but some directly with a "bookmaker" who frequented the licensed premises. The mere participation by defendant, even on his own behalf, in the "gambling" and "bookmaking" activity on the licensed premises is sufficient to find the defendant guilty of the charge.

Defendant has no prior adjudicated record within ten years, except a suspension by the local issuing authority in 1942 for an "hours" violation. I shall suspend the license for twenty days on the gambling charge and ten days for the contraceptive device charge, making a total suspension of thirty days.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 11th day of July, 1951,

ORDERED that Plenary Retail Consumption License C-14, issued for the 1951-52 licensing year by the Board of Commissioners of the Township of Lyndhurst to William Monahan, for premises 37 Ridge Road, Lyndhurst, be and the same is hereby suspended for a period of thirty (30) days, commencing at 2:00 a.m. July 23, 1951, and terminating at 2:00 a.m. August 22, 1951.

ERWIN B. HOCK  
Director.

4. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE AND INDECENT STORIES) - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

EDWARD CORMA  
T/a CASA LOMA CAFE  
Sicklerville Road  
Gloucester Township  
P.O. Sicklerville RFD, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-11 for the 1950-51 and 1951-52 licensing years, issued by the Township Committee of the Township of Gloucester.

S. Thurman Lovitt, 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 a charge alleging that he allowed, permitted and suffered lewd and immoral activities (a female entertainer performed in a lewd, indecent and immoral manner) in and upon the licensed premises, and that male entertainers recited stories having lewd and suggestive import and meaning, in violation of Rule 5 of State Regulations No. 20.

On June 9, 1951, ABC agents witnessed a "floor show" on defendant's licensed premises. One of the features of the show was a "strip tease" dance performed by a female entertainer in the usual burlesque tradition, complete with "bumps, grinds" and movements of her body simulating sexual intercourse. Two male entertainers passed double-meaning "wise-cracks" and recited indecent stories having a relationship to, or emanating from alleged sexual activities.

Such actions and such indecent stories have no place on licensed premises.

Defendant has no previous adjudicated record. Under the circumstances I shall suspend defendant's license for a period of thirty days, less five days' remission for the plea entered herein, or a net suspension of twenty-five days.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal license for the licensing year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 12th day of July, 1951,

ORDERED that Plenary Retail Consumption License C-11, issued for the 1951-52 licensing year by the Township Committee of the Township of Gloucester to Edward Corma, t/a Casa Loma Cafe, for premises on Sicklerville Road, Gloucester Township, be and the same is hereby suspended for a period of twenty-five days, commencing at 2:00 a.m. July 19, 1951, and terminating at 2:00 a.m. August 13, 1951.

ERWIN B. HOCK  
Director.

5. DISCIPLINARY PROCEEDINGS - CONDUCTING LOTTERY AND PERMITTING LOTTERY TICKETS ON LICENSED PREMISES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

VIRGINIA TEMPLE DAVIS )  
1505 South New Road )  
Pleasantville, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-7 for the 1950-51 and 1951-52 licensing years, issued by the Common Council of the City of Pleasantville. )

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Paul M. Salsburg, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that she (1) allowed, permitted and suffered a lottery to be conducted in her licensed premises, in violation of Rule 6 of State Regulations No. 20; and (2) permitted and suffered tickets and participation rights in said lottery in and upon her licensed premises, also in violation of Rule 6 of State Regulations No. 20.

On April 4, 1951, officers of the State Police with local police officers conducting a "raid" on "Virginia Inn", defendant's licensed premises, discovered a large number of "number slips", participation rights in a lottery commonly known as the "numbers game", in a room in said licensed premises that is a part thereof, assigned to the use of her manager and bartender. The "slips" apparently covered the daily operation of the lottery for each day in March 1951.

The manager and bartender, one Robert Handy, subsequently pleaded non vult in a Criminal Court to a charge of "possession of lottery slips", based upon the aforesaid circumstances. Both Robert Handy and the defendant deny that she (the defendant) had any knowledge of this illegal activity. However, even in the absence of actual knowledge, a licensee cannot escape the consequences of an occurrence such as related above. She cannot hide behind her employee. Cf. Re Paton, Bulletin 898, Item 3. Defendant has no prior adjudicated record. I shall suspend the license for twenty days. Remitting five days because of the plea will leave a net suspension of fifteen days.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 12th day of July, 1951,

ORDERED that Plenary Retail Consumption License C-7, issued for the 1951-52 licensing year by the Common Council of the City of Pleasantville to Virginia Temple Davis for premises 1505 South New Road, Pleasantville, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 7:00 a.m. July 23, 1951, and terminating at 7:00 a.m. August 7, 1951.

ERWIN B. HOCK  
Director.

6. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - NO DETERMINATION AS TO CHARGES ALLEGING FALSE STATEMENT IN APPLICATION AND AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE PRIVILEGES OF ITS LICENSE.

CANCELLATION PROCEEDINGS - HOLDER OF LICENSE NOT A BONA FIDE CLUB - LICENSE CANCELLED.

In the Matter of Disciplinary Proceedings against )

DEERWOOD CLUB OF MT. HOREB )  
T/a DEERWOOD )  
Mt. Horeb Road )  
Warren Township )  
P.O. RFD 2, Plainfield, N. J., )

CONCLUSIONS AND ORDER

Holder of Club License CB-1, issued )  
by the Township Committee of Warren )  
Township. )

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Rafferty & Blacher, Esqs., by Philip Blacher, Esq., Attorneys for Defendant-licensee.

William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to charges alleging in substance that (1) it falsified its application dated June 20, 1950, by failing to disclose the interest of one Frank A. Efinger in the license sought by said application, in violation of R. S. 33:1-25; and (2) from August 1, 1949 until the date of said charges (December 28, 1950), it aided and abetted the said Frank A. Efinger to exercise the rights and privileges of its successive club licenses, in violation of R. S. 33:1-52.

Defendant was also directed to show cause why its license should not be cancelled and declared null and void for the following reason:

"Said license was improvidently issued in violation of R. S. 33:1-12(5) and Rule 2 of State Regulations No. 7 in that, at the time of issuance of such license and prior thereto, you were not a bona fide club."

On August 9, 1945 a "Certificate of Incorporation of the Deerwood Club of Mt. Horeb, New Jersey" was filed in the office of the Clerk of Somerset County and recorded in "Book No. 8 of Copartnerships and Corporations for said County" on page 485.

The testimony shows that the club membership never held a meetings; that there are no minutes; that the trustees (the governing body) apparently never met and never took any action; and that Frank A. Efinger controls the finances of the club, even signing the checks, all without any authority or supervision by the club membership or by its trustees. He also engages the help, owns the land and building whereon the licensed business is operated, and, while allegedly leasing it to the club, no evidence of a lease was presented.

After the investigation commenced, it appears that the trustees held a "rump" meeting on a waiver of notice signed only by three of the five members, apparently for the purpose of scheduling a membership meeting. No minutes of this alleged meeting were produced, nor is there any testimony that the above membership meeting was ever held. While there is offered as an exhibit in this case a paper writing, purporting to be the by-laws of the alleged club, there is no evidence whatsoever as to when, if ever, said by-laws were adopted. In any event, it is apparent that the alleged organization is not and has not been a club within the purview of the statute and the rules and regulations set up thereunder. R.S. 33:1-12(5); State Regulations No. 7.

Accordingly, I find that the said defendant was not a bona fide club prior to the issuance of its current license. I shall cancel the license. Re Unity Political and Social League, Bulletin 894, Item 3.

In view of the result herein, it is not necessary to determine the defendant club's guilt or innocence on the charges herein referred to.

Accordingly, it is, on this 26th day of June, 1951,

ORDERED that Club License CB-1, issued by the Township Committee of Warren Township to Deerwood Club of Mt. Horeb, t/a Deerwood, Mt. Horeb Road, Warren Township, be and the same is hereby cancelled and declared null and void, effective immediately.

ERWIN B. HOCK  
Director.

7. DISCIPLINARY PROCEEDINGS - PRIOR SUSPENSION LIFTED UPON CORRECTION OF ILLEGAL SITUATION EFFECTIVE AFTER SUSPENSION HAS BEEN IN EFFECT 30 DAYS.

In the Matter of Disciplinary Proceedings against )

LAZY K BAR RANCH, INC. )  
T/a LAZY K BAR RANCH )  
Route S-31, Culvers Lake )  
Frankford Township )  
P.O. Branchville, N. J., )

O R D E R

Holder of Plenary Retail Consumption License C-5 for the 1950-51 licensing year, issued by the Township Committee of Frankford Township. )  
----- )

Mackerley and Friedman, Esqs., by Frank Dolan, Esq., Attorneys for Defendant-licensee.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

By Order dated June 7, 1951, defendant's license was suspended for the balance of its term, effective at 2:00 a.m. June 11, 1951, and it was further ordered that any renewal of said license should remain under suspension until entry of a further order herein upon an application made to me for the lifting of the suspension. In said Order it was provided that, if the illegal situation was corrected, application might be made to me for the lifting of the suspension, but in no event would an order lifting the suspension be entered prior to the expiration of thirty days from the effective date hereof.

Defendant having applied for an order lifting the suspension, a hearing as to the correction of the illegal situation was held on July 5, 1951.

It appears to my satisfaction that Ralph Marino at the present time has no interest in defendant corporation and that all of the shares of stock of defendant corporation are now owned by Joseph Del Negro and Lucy Del Negro, his wife; that Joseph is the owner of

ninety-nine shares and that Lucy is the owner of one share of the stock issued by defendant corporation.

Joseph Del Negro formerly resided in Brooklyn, New York. However, he contends that he is now a resident of the State of New Jersey and, hence, qualified to own more than ten per cent of the stock of defendant corporation. At the hearing he testified that, in the latter part of April 1951, he moved from Brooklyn to 120 Market Street, Garfield, New Jersey, with the intention of becoming a permanent resident of New Jersey, and that he has lived at that address since that time. Del Negro stated that his wife and children continue to reside in Brooklyn but explained that his wife "doesn't want to move out here unless I have a home for her". He obtained a New Jersey driver's license on June 20, 1951. In both cases he gave his address as 120 Market Street, Garfield, New Jersey. In June 1951 he also registered as a voter from his Garfield address. A man with whom he resides testified that Joseph Del Negro has been living at 120 Market Street, Garfield, since the last week in April.

From all of the evidence I conclude that Joseph Del Negro is now a resident of the State of New Jersey within the meaning of that term as used in R. S. 33:1-25. Hence I conclude that the illegal situation has been corrected.

It further appears that the thirty-day suspension will expire at 2:00 a.m. July 11, 1951, and that the Township Committee of Frankford Township has withheld action on defendant's application to renew its license pending the entry of an order herein. It further appears that at the present time the licensed premises are closed. Under all the circumstances I shall lift the suspension at 2:00 a.m. July 11, 1951, or as soon thereafter as the renewed license is issued by the Township Committee.

Accordingly, it is, on this 9th day of July, 1951,

ORDERED that, if a renewal of Plenary Retail Consumption License C-5 be issued by the Township Committee of Frankford Township to Lazy K Bar Ranch, Inc., t/a Lazy K Bar Ranch, for premises on Route S-31, Culvers Lake, Frankford Township, before 2:00 a.m. July 11, 1951, said license shall be restored to full force and operation effective at that time, or that said license shall be restored to full force and operation as soon thereafter as the new license is issued by the Township Committee.

ERWIN B. HOCK  
Director.

8. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF THE LICENSED PREMISES IN OTHER THAN ORIGINAL CONTAINER, IN VIOLATION OF R. S. 33:1-2 - REFILLING BEER BOTTLE WITH WINE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

DOMINICK PISANO )  
1051 Broadway )  
Bayonne, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-146 for the 1950-51 and 1951-52 licensing years, issued by the Board of Commissioners of the City of Bayonne. )

----- )  
Dominick Pisano, Defendant-licensee, Pro Se. )  
Vincent T. Flanagan, Esq., appearing for Division of Alcoholic Beverage Control. )

BY THE DIRECTOR:

Defendant has pleaded non vult to charges that he (1) sold an alcoholic beverage in other than the original container for consumption off the licensed premises, not within the terms of his plenary retail consumption license, in violation of R. S. 33:1-2; (2) bottled an alcoholic beverage for purpose of sale, without license so to bottle, in violation of R. S. 33:1-78; and (3) possessed on his 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.

On May 16, 1951, an agent of the State Division of Alcoholic Beverage Control purchased one quart of "Reggio California Zinfandel Wine" from the licensee. The wine was poured from a gallon tax-paid jug into a quart beer bottle and carried off the premises.

Defendant has no prior adjudicated record. The three charges arise out of the licensee's primary violation of "sale for off-premises consumption in other than original container", the violation of Rule 27 of State Regulations No. 20 apparently being incidental. Cf. Re Soccol, Bulletin 818, Item 5. Accordingly, I shall impose only the minimum penalty for such sale -- ten days (see Re Soccol, supra). Cf. Blockburger v. U. S., 284 U. S. 299; 76 L. ed. 306; Gavieres v. U. S., 220 U.S. 338; 55 L. ed. 489. Remitting five days because of the plea will leave a net suspension of five days.

Although this proceeding was instituted during the 1950-51 licensing year, it does not abate but remains fully effective against the renewal license for the licensing period 1951-52. State Regulations No. 16.

Accordingly, it is, on this 6th day of July, 1951,

ORDERED that Plenary Retail Consumption License C-146, issued for the 1951-52 licensing year by the Board of Commissioners of the City of Bayonne to Dominick Pisano, for premises 1051 Broadway, Bayonne, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. July 16, 1951, and terminating at 2:00 a.m. July 21, 1951.

ERWIN B. HOCK  
Director.

9. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALE TO MINOR NOLLE PROSSED - CONTRACEPTIVES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

FORT LEE TAVERN, INC. )  
1630 Lemoine Avenue )  
Fort Lee, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-30 for the 1950-51 and 1951-52 licensing years, issued by the Borough Council of the Borough of Fort Lee. )

Fort Lee Tavern, Inc., Defendant-licensee, by Romolo J. Sartorio, President.

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

BY THE DIRECTOR:

The following charges were preferred against the defendant:

"1. On or about April 16, 1951, and on divers days prior thereto, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to Antonio ---, a person under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such person upon your licensed premises; in violation of Rule 1 of State Regulations No. 20.

"2. On April 19, 1951, and prior thereto, you possessed and allowed, permitted and suffered contraceptive devices or prophylactics against venereal disease in and upon your licensed premises; in violation of Rule 9 of State Regulations No. 20."

Defendant entered a plea of not guilty to charge (1), and a plea of guilty to charge (2).

As to charge (1): The minor in question is now in military service and is not available to testify on behalf of the Division. Under the circumstances, the Division consented that charge (1) be nolle prossed.

As to charge (2): The bartender, when questioned about the two contraceptive devices, stated that they were found on the floor and were placed in a drawer under the back bar.

Defendant has no previous adjudicated record. While it has been established that defendant possessed contraceptive devices on his licensed premises, there is no evidence that they were sold or distributed on the licensed premises. A suspension of defendant's license for ten days would appear to be ample for a first offense of this kind. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Although this proceeding was instituted during the 1950-51 licensing year, it does not abate but remains fully effective against the renewal license for the licensing period 1951-52. State Regulations No. 16.

Accordingly, it is, on this 6th day of July, 1951,

ORDERED that Plenary Retail Consumption License C-30, issued for the 1951-52 licensing year by the Borough Council of the Borough of Fort Lee to Fort Lee Tavern, Inc. (now trading as Romolo J. Sartorio),

for premises 1630 Lemoine Avenue, Fort Lee, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m. July 16, 1951, and terminating at 3:00 a.m. July 21, 1951.

ERWIN B. HOCK  
Director.

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

In the Matter of Disciplinary Proceedings against

STEVE HOLZLI  
T/a STEVE'S TAVERN  
80 Mallory Avenue  
Jersey City 4, N. J.,

)  
)  
) CONCLUSIONS  
) AND ORDER  
)

Holder of Plenary Retail Consumption License C-524 for the 1950-51 and 1951-52 licensing years, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

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Steve Holzli, Defendant-licensee, Pro Se.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to a charge alleging that he possessed illicit alcoholic beverages, namely, one 4/5 quart bottle labeled "Seagram's Seven Crown Blended Whiskey 86.8 Proof", which bottle bore a label which did not truly describe its contents, in violation of Rule 27 of State Regulations No. 20.

On April 13, 1951, an inspector employed by the Alcohol Tax Unit, Internal Revenue Service, Treasury Department, examined twenty-eight bottles of alcoholic beverages on defendant's licensed premises and seized the bottle in question when field tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by a Federal chemist disclosed that the contents of the seized bottle were not genuine as labeled.

Defendant has no previous adjudicated record. I shall suspend defendant's license for the minimum period of fifteen days, less five days' remission for the plea entered herein, leaving a net suspension of ten days. Re Moore, Bulletin 883, Item 11.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal license for the licensing year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 6th day of July, 1951,

ORDERED that Plenary Retail Consumption License C-524, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Steve Holzli, t/a Steve's Tavern, for premises 80 Mallory Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. July 16, 1951, and terminating at 2:00 a.m. July 26, 1951.

ERWIN B. HOCK  
Director.

11. DISCIPLINARY PROCEEDINGS - PRIOR SUSPENSION LIFTED UPON CORRECTION OF ILLEGAL SITUATION EFFECTIVE AFTER SUSPENSION HAS BEEN IN EFFECT 30 DAYS.

In the Matter of Disciplinary Proceedings against )

ARTHUR F. CUMMINS, SR. )  
T/a CUMMINS TAVERN AND TROPICAL GARDEN )  
328 Bay Avenue )  
Highlands, N. J., )

ON PETITION  
O R D E R

Holder of Plenary Retail Consumption License C-13 (for the 1950-51 licensing year), issued by the Borough Council of the Borough of Highlands; transferred during 1950-51 licensing year to, and renewed for 1951-52 licensing year, by )

MINNIE CUMMINS )

for the same premises. )  
----- )

BY THE DIRECTOR:

By order dated June 14, 1951, the license then held by Arthur F. Cummins, Sr. was suspended for the balance of its term, effective at 3:00 a.m. June 19, 1951, and it was further ordered that, if said license was transferred to a qualified person and thereafter renewed, such license was to remain under suspension until entry of a further order herein. In said order it was provided that, if the illegal situation was corrected, application might be made to me for the lifting of said suspension but in no event would the suspension be lifted until the expiration of thirty (30) days from the effective date of the suspension. The orders were entered after defendant had pleaded non vult to charges alleging, in substance, that he was a "front" for his mother, Minnie Cummins. Re Cummins, Bulletin 911, Item 7.

The verified petition of Minnie Cummins sets forth that License C-13 was transferred (subject to the suspension) from Arthur F. Cummins, Sr. to her, by the Borough Council of the Borough of Highlands, pursuant to a resolution dated June 4, 1951, and that her application for renewal of said license for the 1951-52 licensing year was granted (subject to the suspension) by said Borough Council by a resolution dated June 18, 1951. A copy of the resolution transferring the license to Minnie Cummins is attached to the petition. The petition further sets forth that Minnie Cummins is fully qualified to hold a retail license.

It appearing that the illegal situation has been corrected, and it further appearing that the thirty-day suspension will expire at 3:00 a.m. July 19, 1951,

It is, on this 9th day of July, 1951,

ORDERED that Plenary Retail Consumption License C-13 (for the 1951-52 licensing year), issued by the Borough Council of the Borough of Highlands to Minnie Cummins for premises 328 Bay Avenue, Highlands, be restored to full force and operation, effective at 3:00 a.m. July 19, 1951. Until then the license remains under suspension.

ERWIN B. HOCK  
Director.

12. DISCIPLINARY PROCEEDINGS - MISLABELED BEER TAP - PRIOR RECORD - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

THOMAS F. CRAWLEY )  
T/a "BELVEDERE BEACH HOTEL" )  
S/W cor. Laurel & Charles Avenues )  
Keansburg, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-35, issued by the Mayor and Municipal Council of the Borough of Keansburg. )

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Thomas F. Crawley, defendant-licensee, Pro se.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he possessed on his licensed premises taps connected to barrels of beer, which taps did not bear markers or name labels, in violation of Rule 26 of State Regulations No. 20.

An ABC agent on routine inspection of defendant's licensed premises on July 6, 1951, found that beer was being drawn from two taps on the licensed premises, both labeled "Krueger Ambassador", a brand of beer. One of the taps was connected to a barrel of "Ruppert Knickerbocker" beer and the other one to a barrel of "Schmidt's" beer, clearly in violation of Rule 26 of Regulations No. 20.

Defendant has a prior adjudicated record. Effective May 22, 1950, his license was suspended for five days after a plea of guilty to a charge of selling alcoholic beverages to a minor. Bulletin 876 Item 7. Considering this record and the full record herein, I shall suspend the license for ten days. Remitting five days because of the plea will leave a net suspension of five days.

Accordingly, it is, on this 11th day of July, 1951,

ORDERED that Plenary Retail Consumption License C-35, issued by the Mayor and Municipal Council of the Borough of Keansburg to Thomas F. Crawley, t/a "Belvedere Beach Hotel", for premises at S/W Cor. Laurel and Charles Avenues, Keansburg, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. July 16, 1951, and terminating at 2:00 a.m. July 21, 1951.

ERWIN B. HOCK  
Director.

13. STATE LICENSES - NEW APPLICATIONS FILED.

Anthony Pietrafesa, t/a Valeriani Bottling Co.  
414 and Rear of 412 Pine Street, Camden, N. J.  
Application filed July 18, 1951 for transfer of State Beverage Distributor License SBD-201 from Frank Valeriani, t/a Valeriani Bottling Co., same address.

Anton Nichyparowich  
330 Ellery Avenue, Newark, N. J.  
Boat "Victory II"  
Application filed July 23, 1951 for Plenary Retail Transit License

Glenroy Ltd.  
101-103 Edison Place, Newark 5, N. J.  
Application filed July 24, 1951 for Warehouse Receipts License.

ERWIN B. HOCK  
Director.

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

In the Matter of Disciplinary Proceedings against  
THEODORE A. KACZOROWSKI and  
STANLEY L. BLAZEJEWSKI  
T/a AMBER ROOM TAVERN  
113-119 South Main St.  
Lodi, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-24 for the 1950-51 and 1951-52 licensing years, issued by the Mayor and Council of the Borough of Lodi.

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Theodore A. Kaczorowski and Stanley L. Blazejewski, Defendant- licensees, by Theodore A. Kaczorowski, Partner.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendants have pleaded non vult to a charge alleging that they sold, served and delivered alcoholic beverages to four minors, in violation of Rule 1 of State Regulations No. 20.

On Saturday, June 16, 1951, ABC agents observed the four minors in question, 20, 19, 19 and 17 years of age, respectively, drinking beer poured by them from a pitcher that had been delivered to their table by an employee of defendants.

Defendants have no previous adjudicated record. In view of the fact that the violation is aggravated because one of the youths was only 17 years of age, I shall suspend defendants' license for a period of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 12th day of July, 1951,

ORDERED that Plenary Retail Consumption License C-24, issued for the 1951-52 licensing year by the Mayor and Council of the Borough of Lodi to Theodore A. Kaczorowski and Stanley L. Blazejewski, t/a Amber Room Tavern, for premises 113-119 South Main Street, Lodi, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 4:00 a.m. July 23, 1951, and terminating at 4:00 a.m. August 7, 1951.

Director.