

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

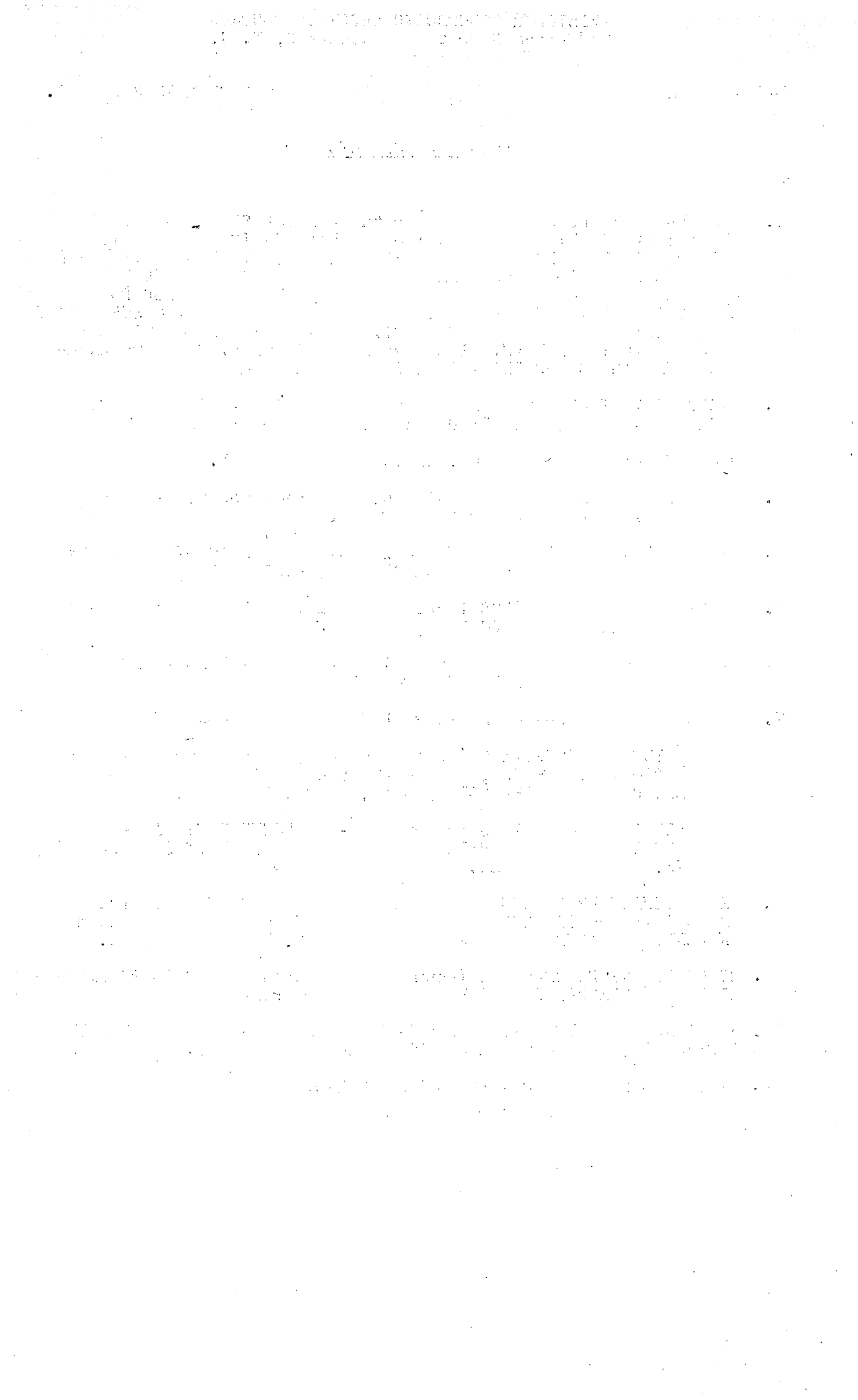
BULLETIN 944

SEPTEMBER 23, 1952.

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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 944

SEPTEMBER 23, 1952.

1. DISCIPLINARY PROCEEDINGS - FALSE STATEMENTS IN LICENSE APPLICATION - CONCEALING MATERIAL FACTS (FAILURE TO DISCLOSE THAT A DISQUALIFIED PERSON WAS ASSISTANT SECRETARY AND THAT MAJORITY STOCKHOLDER HAD BEEN CONVICTED OF A CRIME RECENTLY EXPUNGED OF RECORD) - SALE ~~By~~ MINOR - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO APPLY FOR ORDER LIFTING SUSPENSION AFTER EXPIRATION OF 90 DAYS IF SITUATION CORRECTED - CHARGE ALLEGING THAT DEFENDANT AIDED AND ABETTED NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF LICENSE DISMISSED.

In the Matter of Disciplinary Proceedings against

HOLIDAY INN INC.

414-434 State Highway 25
Elizabeth, N. J.

CONCLUSIONS

AND ORDER

Holder of Plenary Retail Consumption License C-120 for the 1951-52 and 1952-53 licensing years,

issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth.

Saul C. Schutzman, Esq., Attorney for Defendant-licensee.

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

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charges:

"1. In your application dated June 4, 1951, filed with the Municipal Board of Alcoholic Beverage Control of Elizabeth, upon which you obtained your current plenary retail consumption license, in answer to Question 20, which calls for the names and residences of all officers of applicant corporation and office held by each, you listed only Agnes Cohen as your president, Gerald Cohen as your vice president and Stanley Cohen as your secretary-treasurer, thereby evading and suppressing the material fact that Jacy Cohen was your assistant secretary and by your negative answer to Question 33, you evaded and suppressed the material fact that he had been convicted of crime; such evasion and suppression being in violation of R.S. 33:1-25.

"2. In your aforesaid application you, after listing your stockholders in answer to Question 22 as Agnes Cohen (6 shares or 60%), Gerald Cohen (2 shares or 20%) and Stanley Cohen (2 shares or 20%), falsely stated 'No' in answer to Question 23, which asks: 'Has any...individual other than the stockholders hereinbefore set forth any beneficial interest, directly or indirectly, in the stock held by said stockholders?', whereas in truth and fact Jacy Cohen (not mentioned in the application) and Agnes Cohen were the real and beneficial owners of all of your stock; such false statement being in violation of R. S. 33:1-25.

"3. From on or about November 3, 1949 until the present time you knowingly aided and abetted Jacy Cohen to exercise, contrary to R. S. 33:1-26, the rights and privileges of your plenary retail consumption license; thereby yourself violating R.S. 33:1-52."

Defendant pleaded non vult to the following additional charges:

"4. In your aforesaid application you falsely stated 'No' in answer to Question 33, which asks: 'Have you or has any person mentioned in this application ever been convicted of any crime?', whereas in truth and fact Agnes Cohen, mentioned in the application as your president, director and 60% stockholder, had been convicted of crime in the Newark Family Court (now Municipal Court, Family Part) on or about April 2, 1936; said false statement being in violation of R.S. 33:1-25.

"5. On August 8, 1951 you knowingly allowed, permitted and suffered Wayne Searles, a person under the age of twenty-one (21) years, to sell, serve and solicit the sale of alcoholic beverages, in violation of Rule 2 of State Regulations No. 13."

As to charge 1: At the hearing there was introduced into evidence a copy of a resolution certified by defendant's secretary as a true copy of the resolution adopted by its board of directors on November 9, 1949 authorizing the opening of a deposit account in a local bank and providing for withdrawals by check signed in the name of the corporation by Agnes B. Cohen, president, or Jacy Cohen, assistant secretary. The resolution contained the following recitation "The above resolution is in accord with the By-Laws of this Corporation" and listed the officers (elected at a meeting of the board of directors held on October 25, 1949) as follows: Agnes B. Cohen, president, Gerald Cohen, vice president, Stanley Cohen, secretary-treasurer, Jacy Cohen, assistant secretary.

It was admitted by defendant's witnesses that Jacy Cohen signs checks for and on behalf of the corporation; that, until the investigation which resulted in these charges was instituted, he acted as manager at defendant's licensed premises; that he ordered the alcoholic beverages used in the licensed business; that he acted as adviser to the corporation and, from time to time, loaned it money (including money for the license fee for the 1952-53 licensing period). While some of the witnesses testified that Jacy Cohen was not "elected" assistant secretary of defendant corporation but was merely "designated" as such to give him a "title" and to permit him to sign checks, and while one of the witnesses said that he had never considered Jacy Cohen an "officer" of the corporation, nevertheless, the corporation, through its secretary and under the seal of the corporation, certified Jacy Cohen as its assistant secretary and thereafter held him out to be such. Nor was he a mere figurehead. He was in fact very active in the business conducted under the license. Under the circumstances, I find that, at the time the application for the 1951-52 license was filed, Jacy Cohen was an officer of the defendant corporation within the meaning of R. S. 33:1-25 which requires the names and addresses of all officers to be stated in the application; and that, by its failure to disclose this information, defendant thereby evaded and suppressed a material fact in violation of the section above cited. I further find that the negative answer to Question 33 of the license application evaded and suppressed the fact that Jacy Cohen had been convicted of crime (it having been admitted at the hearing that Jacy Cohen has been convicted of several crimes).

I therefore find defendant guilty of charge 1.

As to charges 2 and 3: Although the facts and surrounding circumstances disclosed at the hearing raise strong suspicion that Jacy Cohen has a financial interest in the corporation and in the business conducted under the license, and that he may have a beneficial interest in the stock held by his sons, Gerald Cohen and Stanley Cohen, the evidence is not sufficient to warrant a finding of guilt. Consequently I find defendant not guilty on charges 2 and 3.

As to charges 4 and 5: Defendant pleaded non vult, as above indicated.

Defendant has no prior adjudicated record. In arriving at the penalty to be imposed, a number of matters must be considered. First and with respect to charge 1, at least one of the crimes of which Jacy Cohen was convicted (burglary, entering and larceny) involves moral turpitude. He was thereby rendered ineligible to be connected in any business capacity with the alcoholic beverage industry in New Jersey. See Case No. 988, Bulletin 944, Item 2, decided contemporaneously herewith.

Second and with respect to charge 4, pursuant to N. J. S. 2A:164-28 an order was entered on July 31, 1952 expunging all evidence of the conviction of crime against Agnes B. Cohen which formed the basis of said charge 4. The subsequent entry of that order does not vitiate or excuse the false answer made at the time the license application was filed. However, in determining the penalty to be imposed because of the concealment of such conviction I shall consider the fact that the conviction has been expunged and that therefore Agnes B. Cohen is not presently disqualified.

Third, charge 5 appears to be unaggravated.

Under all of the circumstances, and in view of my finding of guilt with respect to charge 1 and defendant's plea with respect to charges 4 and 5, the license would ordinarily be suspended for a period of ninety days. However, since Jacy Cohen still remains an officer of the defendant corporation, I shall suspend defendant's license for the balance of its term. In the event that the license is transferred to a duly qualified person, or in the event that it is established by sufficient proof that said Jacy Cohen is no longer an officer of the corporation or connected with it in any business capacity, application may be made to me for the lifting of such suspension, but in no event will an order lifting the suspension be entered prior to the expiration of ninety days from the effective date hereof.

Although this proceeding was instituted during the 1951-52 licensing period, it does not abate but remains fully effective against the renewal license for the 1952-53 licensing period. State Regulations No. 16.

Accordingly, it is, on this 5th day of September, 1952,

ORDERED that Plenary Retail Consumption License C-120, issued for the 1952-53 licensing period by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth to Holiday Inn Inc., 414-434 State Highway 25, Elizabeth, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. September 11, 1952; and it is further

ORDERED that in the event a correction of the illegal situation is effected, leave will be given to make application to me for the lifting of the suspension, as aforesaid.

DOMINIC A. CAVICCHIA
Director.

2. DISQUALIFICATION - UNLAWFULLY ENGAGING IN ALCOHOLIC BEVERAGE BUSINESS WHILE DISQUALIFIED - APPLICATION TO LIFT DENIED.

MORAL TURPITUDE - BURGLARY, ENTERING AND LARCENY.

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

CONCLUSIONS
AND ORDER

Case No. 988.
-----)

BY THE DIRECTOR:

Petitioner pleaded non vult in a county court in 1932 to the crime of burglary, entering and larceny, as the result of which he was placed on probation for two years and required to pay a fine of \$1.00 a week. Since the crime of which he was convicted involves moral turpitude, he became ineligible to hold a license or be connected in any business capacity with the alcoholic beverage industry in New Jersey.

Prior to the aforementioned conviction, petitioner, in 1931, pleaded non vult in a county court to the crime of illegal possession of liquor in violation of the Hobart Act (the State prohibition law), as a result of which he was fined \$500.00; and in 1936, subsequent to said conviction, he pleaded non vult in a municipal court to the crime of adultery, as a result of which he was sentenced to serve three months in the county penitentiary. This latter conviction also resulted in a sentence of an additional term in the county penitentiary for violation of probation but, after petitioner had served three months, the order was vacated and he was placed on probation for five years. Since that time petitioner's record is clear of any arrests or convictions except that, in 1939, he was adjudged an "undesirable" by the acting magistrate in a municipal court and was sentenced to 364 days with sentence suspended upon the court's order that petitioner leave the city. Petitioner testified that this sentence was never served and that, upon return to duty of the magistrate, it was "automatically forgotten". Since the crime first above mentioned involves moral turpitude, it is unnecessary to determine whether any other crime of which petitioner was convicted also involves moral turpitude.

Petitioner produced four witnesses, three businessmen and one member of the governing body of the municipality in which petitioner resides, all of whom have known petitioner for at least six years, two of them for a much longer period of time. They testified that petitioner bears a good reputation in the community and that, so far as they know, he has been law-abiding for at least five years last past.

Petitioner testified that, since his last conviction, he has been self-employed in this state and elsewhere and that, more recently, he has been in the "used" automobile business. He admitted that, for a period of almost two years, from early in 1950 to late in 1951, he was engaged in the alcoholic beverage business in this state in that he had been performing services in connection with the plenary retail consumption licensed premises of a corporation the capital stock of which is owned by his wife and two sons. In fact, he was manager of the licensed business and, for a time, received compensation as such. From the testimony adduced at the hearing on this petition and in the disciplinary proceedings in Re Holiday Inn, Inc., Bulletin 944, Item 1, decided contemporaneously herewith, it appears that petitioner was named assistant secretary of the licensee corporation and, as such, signs checks drawn upon its bank account. Petitioner denied that he refrained from stock ownership in the

corporation because of his criminal record; and he further denied any knowledge of his disqualification to be engaged in the alcoholic beverage industry in this state. He explained that he does not want to own stock in any corporation because of Federal income tax litigation which has been pending for a number of years. In this connection petitioner testified at the hearing herein as follows:

"Q Isn't it a fact that your impression of your tax difficulties was such that you were reluctant for that reason to even make any financial commitments in your name?

"A That is right. I didn't want any investments, I didn't want to own property because I thought I could get a better settlement with the government. It has been five or six years."

I am not impressed with this explanation. From all of the facts and circumstances disclosed by the record in this case and in the disciplinary proceedings (Re Holiday Inn, Inc., supra), I am convinced that petitioner either knew of or suspected his disqualification resulting from his convictions as hereinabove set forth.

In order to grant the relief sought by petitioner I must find that he has been law-abiding for at least five years last past. In view of his recent business connection with the alcoholic beverage industry in this state while disqualified, and also in view of my disbelief of his claim of ignorance of his disqualification, I am unable to find that he has been law-abiding within that period. Case No. 601, Bulletin 779, Item 7. Cf. Case No. 304, Bulletin 602, Item 5. I must therefore dismiss the petition.

Accordingly, it is, on this 5th day of September, 1952,

ORDERED that the petition herein be and the same is hereby dismissed.

DOMINIC A. CAVICCHIA
Director.

3. DISCIPLINARY PROCEEDINGS - SALE TO MINOR -- LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against

JANE SCHUYLER
T/a LACKAWANNA HOTEL
Corner of East Grand & Church Sts.
Hampton (Hunterdon Co.), N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-3 for the 1951-52 and 1952-53 licensing years, issued by the Borough Council of the Borough of Hampton.

Charles W. L. Summerill, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to a charge alleging:

"On Friday, March 14, 1952, between 7:00 p.m. and 9:00 p.m., you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises, to Glen ---, 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."

From all of the testimony it appears that Glen ---, in the early evening of March 14, 1952 (he then being 15 years old), and four companions in a pickup truck drove to the defendant's licensed premises; that while his companions remained in the truck, he went into the licensed premises and purchased a case of canned beer from Amanda Johnson, who was then acting as bartender; and that thereafter, Glen carried the case of beer to the truck and drove away from the licensed premises.

Glen's testimony that he purchased the beer was categorically denied by Amanda Johnson and Harry ---, Glen's adult brother, and claim was made by them that Harry bought the beer, thereafter turning it over to Glen. However, I am not impressed with the veracity of either of these witnesses in view of the self-interest of the former and the fact that the latter resides at the licensed premises. Additionally, whereas the testimony of the minor was forthright and lacking in any probable improper motivation, the testimony of Amanda Johnson was evasive and that of Harry was argumentative. Finally, the testimony of Glen is corroborated in substantially all significant aspects by that of eight disinterested witnesses, viz., his four companions, three ABC agents and his mother.

I believe the testimony of the minor and I disbelieve the testimony of Amanda Johnson and Harry. I therefore find the licensee guilty of so much of the charge as alleges that she sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to Glen ---, a minor, as charged. There being no evidence that the minor consumed any alcoholic beverages on the licensed premises, I find the licensee not guilty of so much of the charge as alleges that Glen --- was allowed, permitted and suffered to consume alcoholic beverages upon the licensed premises, as charged.

Defendant has no prior adjudicated record. In view of the tender age of the minor, I shall suspend defendant's license for 25 days. Cf. Re Gordon, Bulletin 906, Item 8.

Although this proceeding was instituted during the 1951-52 licensing period, it does not abate but remains fully effective against the renewal license for the 1952-53 licensing period. State Regulations No. 16.

Accordingly, it is, on this 8th day of September, 1952,

ORDERED that Plenary Retail Consumption License C-3, issued for the 1952-53 licensing period by the Borough Council of the Borough of Hampton to Jane Schuyler, t/a Lackawanna Hotel, corner of East Grant and Church Streets, Hampton, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 a.m. September 15, 1952, and terminating at 2:00 a.m. October 10, 1952.

DOMINIC A. CAVICCHIA
Director.

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

In the Matter of Disciplinary Proceedings against

FERDINANDO CIANCIO T/a REX TAVERN W/S Fort Dix Road Wrightstown, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-1 issued by the Borough Council of the Borough of Wrightstown.

Saul C. Schutzman, Esq., Attorney for Defendant-licensee. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On August 19, 1952, there was served upon defendant a copy of the following charge:

"On August 14, 1952, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly and indirectly, at your licensed premises to Pvt. Thomas ---, 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."

On August 22, 1952, while the above charge was pending and undetermined, there was served upon defendant a copy of the following additional charge:

"On August 15, 1952, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly and indirectly, at your licensed premises to Pvt. Jessie --- and Pvt. Arnold ---, persons under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

Defendant has pleaded non vult to both charges.

The file herein discloses that on the evening of August 14, 1952, two ABC agents, who were then in defendant's premises, observed the service of an alcoholic beverage (a Tom Collins) by a bartender to Private Thomas ---, then 18 years of age. After the bartender picked up some money on the bar and the minor started to consume his drink, the agents identified themselves and seized the alcoholic beverage.

The file further discloses that on the evening of August 15, 1952, Private Jessie ---, then 19 years of age, entered defendant's premises and purchased from the same bartender two glasses of beer which he consumed; that, on the same evening, Private Arnold ---, then 20 years of age, entered defendant's premises with another soldier of full age; that the other soldier purchased a quart of beer from the same bartender; that the bartender placed the quart of

beer and two empty glasses on the bar and that the minor consumed a glass of beer which had been poured by the other soldier from the quart bottle. The violations which occurred on August 15, 1952 were called to the attention of the Division by the military authorities of Fort Dix as a result of reports received from members of the Military Police.

Defendant alleges that he did not personally participate in the violations and that he has discharged the bartender. Nevertheless, the licensee is responsible for the acts of his agents in the conduct of the licensed business.

As to penalty: On November 24, 1943, a license then held by Benjamin and Ferdinando Ciancio for the same premises was suspended for a net period of five days after defendants had pleaded guilty to a charge of selling alcoholic beverages to a minor. Re Ciancio, Bulletin 597, Item 4. Under all the circumstances of this case, I shall suspend defendant's license for twenty days. Five days will be remitted because of the plea, leaving a net suspension of fifteen days. Cf. Re Manuk, Bulletin 802, Item 9.

Accordingly, it is, on this 4th day of September, 1952,

ORDERED that Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Wrightstown to Ferdinando Ciancio, t/a Rex Tavern, for premises on W/S Fort Dix Road, Wrightstown, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. September 10, 1952, and terminating at 2:00 a.m. September 25, 1952.

DOMINIC A. CAVICCHIA
Director.

5. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

GREENBROOK COUNTRY CLUB, INC.
West Greenbrook Road
North Caldwell, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-2 for the 1951-52 and 1952-53 licensing years, issued by the Borough Council of the Borough of North Caldwell.

S. Arthur Stern, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On June 4, 1952, you possessed, had custody of, and allowed, permitted and suffered in and upon your licensed premises, alcoholic beverages in bottles which bore labels which did not truly describe their contents, viz.,

Three 4/5 quart bottles labeled 'Canadian Club Blended Canadian Whisky 90.4 Proof'."

The file herein discloses that on June 4, 1952, an ABC agent tested thirty-one opened bottles of alcoholic beverages on defendant's premises and seized three 4/5 quart bottles labeled "Canadian Club Blended Canadian Whisky 90.4 Proof" when his field tests indicated a variance between the description on the labels of the bottles and the contents thereof. Disciplinary proceedings were instituted when a subsequent analysis by the Division chemist indicated that the contents of the seized bottles were not genuine as labeled.

Defendant requested and was granted leave to have the contents of the seized bottles analyzed by a chemist employed by defendant. The analysis made by defendant's chemist was in substantial agreement with the analysis made by the Division chemist, which indicated that the whiskey found in the seized bottles contained a much larger percentage of solids and was darker in color than the whiskey contained in genuine samples of the same product. After receiving its chemist's report, defendant pleaded non vult to the charge prior to the hearing scheduled to be held herein. Defendant disclaimed any knowledge of the fact that anyone had tampered with the contents of the seized bottles. Nevertheless, a licensee is responsible for any "refills" found in its stock of liquor. Re Bertola, Bulletin 921, Item 8.

Defendant has no prior adjudicated record. Under the circumstances, I shall suspend defendant's license for the minimum period of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days. Re Stage Coach Inn, Bulletin 903, Item 5.

Although this proceeding was instituted during the 1951-52 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1952-53. State Regulations No. 16.

Accordingly, it is, on this 8th day of September, 1952,

ORDERED that Plenary Retail Consumption License C-2, issued for the 1952-53 licensing year by the Borough Council of the Borough of North Caldwell to Greenbrook Country Club, Inc., for premises on West Greenbrook Road, North Caldwell, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. September 15, 1952, and terminating at 2:00 a.m. September 30, 1952.

DOMINIC A. CAVICCHIA

Director.

6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

PIKE INN (A Corp.))
T/a PIKE INN)
228 Belleville Pike)
Kearny, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-29, issued by the Mayor and Council of the Town of Kearny.)

Russel E. Greco, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to a charge alleging that it sold, served and delivered, and allowed, permitted and suffered the service and delivery of alcoholic beverages to minors, in violation of Rule 1 of State Regulations No. 20.

At the hearing held herein, Rudolph --- testified that he was born on January 17, 1934; that on two separate occasions on the evening of June 7, 1952 he visited defendant's licensed premises; that he first entered the premises at 9:30 p. m. and remained for approximately twenty minutes, during which time he purchased a glass of soda; that he returned to the premises at 10:30 p. m. and remained there until 2:00 a.m. the following morning; that during the second visit he purchased and consumed "about ten or fifteen" glasses of beer; that Vincent Mazzeo, known to him by the name of "Jim", was the bartender who served all the drinks to him on the latter visit; that three bartenders were on duty at the time in question; that at approximately 12:45 a.m. on June 8, 1952 James --- came into the licensed premises and occupied a seat at the bar alongside of him; that both he and James --- left defendant's licensed premises at 2:00 a.m.; that he observed James --- drink beer which was served to him by "Jim" (Vincent Mazzeo), and that at no time was the witness questioned as to his age.

James --- testified that he was born August 5, 1934; that he visited defendant's licensed premises on the early morning of June 8, 1952, and sat next to Rudolph --- at the bar; that "about six or eight" glasses of beer were served to and consumed by him before he left the premises at 2:00 a.m.; that he was unable to identify the bartender who served him but did remember being asked by the bartender to submit proof of his age; that in response to this inquiry "I showed him a Naval Reserve Card" which indicated that "I was twenty-two"; that the bartender looked at the card and thereafter served him beer; that he did not sign any statement to the effect that he was twenty-one years or more of age.

Vincent Mazzeo, President of the defendant corporation, testified that Rudolph --- and James --- were at defendant's licensed premises at the time in question and sat at the section of the bar which he tended; that he did not serve beer to either of them because they did not appear to him to be of age; that the youths created a slight disturbance when he refused to serve them; that the other two bartenders came over to ascertain what the trouble was; and that he served ginger ale to the youths. Vincent Mazzeo further testified that he is sometimes called "Jim".

The two other bartenders on duty on the evening of June 7 and early morning of June 8, 1952 corroborated the testimony of Vincent Mazzeo with reference to the commotion caused by Rudolph --- and James ----.

After carefully reviewing the entire record, I conclude that Vincent Mazzeo, President of defendant corporate-licensee, served beer to Rudolph --- on the evening of June 7, 1952 and to Rudolph --- and James --- on the early morning of June 8, 1952. Although Rudolph --- identified Vincent Mazzeo as the bartender who served him, the fact that James --- was unable to identify the bartender does not render his positive testimony incapable or unworthy of belief. There is not a suggestion in the record that the two minors who testified on behalf of the Division were improperly motivated or that they fabricated their testimony.

The defendant is guilty as charged.

The record of this defendant is entirely free of any adjudicated violation. The minimum suspension for sale of alcoholic beverages to minors is ten days. However, because of the fact that one of these minors was only seventeen years of age, I shall suspend defendant's license for a period of fifteen days. Re Rosenthal & Geller, Bulletin 843, Item 4.

Accordingly, it is, on this 3rd day of September, 1952,

ORDERED that Plenary Retail Consumption License C-29, issued by the Mayor and Council of the Town of Kearny to Pike Inn (A Corp.), t/a Pike Inn, 228 Belleville Pike, Kearny, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. September 8, 1952, and terminating at 2:00 a.m. September 23, 1952.

DOMINIC A. CAVICCHIA
Director.

7. APPELLATE DECISIONS - SHTEIR v. FREEHOLD AND McCORMICK.

HERMAN SHTEIR,)
Appellant,)
-vs-)
TOWNSHIP COMMITTEE OF THE TOWNSHIP)
OF FREEHOLD, and HAROLD F. McCORMICK)
and WILLIAM S. McCORMICK, trading)
as McCORMICK BROTHERS,)
Respondents.)

ON APPEAL
O R D E R

Bernard H. Weiser, Esq., Attorney for Appellant.
Jerry Sokol, Esq., Attorney for Respondent Township Committee.
Stout & O'Hagan, Esqs., by William J. O'Hagan, Esq., Attorneys for Respondents Harold F. McCormick and William S. McCormick, trading as McCormick Brothers.

BY THE DIRECTOR:

This is an appeal from the action of respondent Township Committee whereby it denied appellant's application for a plenary retail distribution license for premises at Main Street, Smithburg, Township of Freehold, and from the action of the Township Committee whereby it granted a similar license to respondents Harold F. McCormick and William S. McCormick, t/a McCormick Brothers, for premises on Lakewood Road in the Township of Freehold, Monmouth County.

Prior to the date of the hearing, the attorney for appellant advised by letter that appellant desired to withdraw the appeal. On the date designated for the hearing no one appeared on behalf of appellant. A formal stipulation authorizing the entry of an order of dismissal has now been submitted by the attorney for appellant and consented to by the attorneys for the respondents.

No reason appearing to the contrary why the within appeal should not be dismissed,

It is, on this 8th day of September, 1952,

ORDERED that the within appeal be and the same is hereby dismissed.

DOMINIC A. CAVICCHIA
Director.

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

DISCIPLINARY PROCEEDINGS - EMPLOYMENT PERMIT - ENGAGING IN CONDUCT PROHIBITED TO EMPLOYER - PERMIT SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

DORA LINNERT)
T/a LIGHTHOUSE INN)
State Highway 4)
Ocean Township (Ocean County))
P. O. Waretown, N. J.,)

Holder of Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Ocean (Ocean County);)

CONCLUSIONS
AND
ORDER

and)

PAUL JOTZAT)
Atlantic City Highway 9-4)
Waretown, N. J.,)

Holder of Employment Permit No. 3021, issued by the State Director of Alcoholic Beverage Control.)

-----)
Dora Linnert, Defendant-licensee, Pro Se.
Paul Jotzat, Defendant-permittee, Pro Se.
David Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant-licensee has pleaded non vult to a charge alleging that on Monday, July 21, 1952, she sold alcoholic beverages during prohibited hours, in violation of Rule 1 of State Regulations No. 38.

Defendant-permittee has pleaded non vult to a charge alleging that on Monday, July 21, 1952, he engaged in conduct prohibited to his employer (defendant-licensee); contrary to the conditions upon which his permit was issued. See Rule 9 of State Regulations No. 13.

The charges against the defendant-licensee and the defendant-permittee arose out of the same set of facts, and, therefore, may be disposed of at one and the same time.

An examination of the file in the instant case discloses that on Monday, July 21, 1952, at 8:05 a.m., Paul Jotzat, employed by defendant and holder of an employment permit, sold six cans of beer in original containers to an ABC agent for off-premises consumption. Rule 1 of State Regulations No. 38 prohibits such sales of alcoholic beverages before 9:00 a.m. on weekdays.

As to penalty against the defendant-licensee: Defendant has no prior adjudicated record. I shall, therefore, suspend her license for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Bernstein, Bulletin 884, Item 12.

The employment permit of defendant-permittee will also be suspended for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 3rd day of September, 1952,

ORDERED that Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Ocean (Ocean County) to Dora Linnert, t/a Lighthouse Inn, State Highway 4, Ocean Township (Ocean County), be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. September 9, 1952, and terminating at 2:00 a.m. September 19, 1952; and it is further

ORDERED that Employment Permit No. 3021, issued by the State Director of Alcoholic Beverage Control to Paul Jotzat, Atlantic City Highway 9-4, Waretown, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. September 19, 1952, and terminating at 2:00 a.m. September 29, 1952.

DOMINIC A. CAVICCHIA
Director.

9. DISCIPLINARY PROCEEDINGS - AIDING AND ABETTING TRANSPORTATION OF ALCOHOLIC BEVERAGES WITHOUT REQUISITE LICENSE OR PERMIT - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

CHAS. GARIBALDI, JR. &
EDITH GARIBALDI
T/a LIBERTY MARKET LIQUOR STORE
701-A Central Avenue
Lavallette, N. J.,

CONCLUSIONS
AND ORDER

holders of Plenary Retail Distribution License D-1, issued by the Borough Council of the Borough of Lavallette.

Edward W. Haines, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have entered a plea of non vult to the following charge:

"On Saturday, June 21, 1952, you knowingly aided and abetted the transportation of alcoholic beverages, viz., twenty-two cases (24 - 12 ounce cans to each case) of beer, in and about the Borough of Lavallette by Paul Minor and David Pinkham without requisite license or permit, contrary to R. S. 33:1-2; in violation of R. S. 33:1-52."

The file herein discloses that on Saturday, June 21, 1952, Paul Minor drove his automobile to defendants' premises where he purchased twenty-two cases (24 - 12 ounce cans to each case) of beer. The clerk who made the sale of the beer directed the purchaser to drive his car to the rear of the licensed premises. Sixteen cases of the beer were loaded and transported in the purchaser's automobile on the first trip made to a bungalow in Lavallette and the remaining six cases on the second trip to the same bungalow. The purchaser's automobile used to transport the beer was not licensed to transport alcoholic beverages in New Jersey.

R. S. 33:1-2 provides, among other things, that ".....alcoholic beverages intended in good faith to be used solely for personal consumption may be transported in any vehicle from a point within this State to the extent of, not exceeding one-half barrel, or two cases containing not in excess of twenty-four quarts in all, of beer.....within any consecutive period of twenty-four hours...."

The transportation was clearly in violation of the provisions of R. S. 33:1-2 and, under the circumstances, defendants are guilty of knowingly aiding and abetting the unlawful transportation, in violation of the provisions of R. S. 33:1-52. Re Anton's Wines & Liquors, Inc., Bulletin 898, Item 5.

Defendants have no prior adjudicated record. I shall therefore suspend defendants' license for a period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 3rd day of September, 1952,

ORDERED that Plenary Retail Distribution License D-1, issued by the Borough Council of the Borough of Lavallette to Chas. Garibaldi, Jr. & Edith Garibaldi, t/a Liberty Market Liquor Store, 701-A Central Avenue, Lavallette, be and the same is hereby suspended for a period of five (5) days, commencing at 9:00 a.m. September 8, 1952, and terminating at 9:00 a.m. September 13, 1952.

DOMINIC A. CAVICCHIA
Director.

10. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

BUDD LAKE AMUSEMENT CORP.)
T/a OASIS BAR)
Shore Road)
Mount Olive Township)
P. O. Budd Lake, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-10, issued by the Township Committee of the Township of Mount Olive.)

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

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging that it sold, served and delivered alcoholic beverages to a minor at its licensed premises, and permitted the consumption of alcoholic beverages by such minor upon the licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file discloses that, on the night of July 23, 1952, while two ABC agents were in the barroom of defendant's licensed premises, the bartender served a glass of beer (free of charge) to Charles E. ---, 20 years of age. After the minor consumed the beer he ordered three containers of draft beer in response to which the bartender delivered to him three one-quart containers of draft beer and collected \$1.50 therefor. As the minor was leaving the licensed premises with the containers of beer he was questioned by the agents and admitted that he was 20 years of age.

The bartender gave a written statement in which he admitted serving the glass of beer and selling the containers of beer to the minor as above recited. He further admitted that he did not question the minor concerning his age.

Since no aggravating circumstances appear, and the defendant has no prior record, I shall impose the usual ten-day suspension, with a remission of five days for the plea entered herein, leaving a net suspension of five days. Re Stansky, Bulletin 928, Item 10.

Accordingly, it is, on this 9th day of September, 1952,

ORDERED that Plenary Retail Consumption License C-10, issued by the Township Committee of the Township of Mount Olive to Budd Lake Amusement Corp., t/a Oasis Bar, Shore Road, Mount Olive Township; be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. September 15, 1952, and terminating at 2:00 a.m. September 20, 1952.

DOMINIC A. CAVICCHIA
Director.

11. STANDARD TIME EFFECTIVE THROUGHOUT THE STATE FROM LAST SUNDAY IN SEPTEMBER (1952) UNTIL LAST SUNDAY IN APRIL (1953).

Under New Jersey Law (Revised Statutes, 1:1-2.3) the standard of time in the State is Eastern Standard Time except from the last Sunday in April until the last Sunday in September, in each year, when the standard of time is Eastern Daylight Saving Time which is one hour in advance of Eastern Standard Time.

The Law is State-wide in its application and is binding on all municipalities.

This year's Daylight Saving Time period is almost over. From midnight Saturday, September 27th, and throughout the seven-month Eastern Standard Time period, the time will be one hour behind the present Daylight Saving Time. To illustrate: As of midnight Saturday, September 27th, clocks are to be turned back one hour. If the regulations of "Municipality X" require closing between the hours of 2:00 A.M. and 7:00 A.M., that municipality's licensed premises must be closed when the changed clock-time reaches 2:00 A.M. and remain closed until the changed clock-time reaches 7:00 A.M.

In some other States the change to Standard Time will take place at 2:00 A.M. on the morning of Sunday, September 28th. Similarly, in some New Jersey municipalities, there are ordinances or resolutions or executive proclamations which indicate that the change to Standard Time is to take place, in the particular municipality, at 2:00 A.M. on the morning of Sunday, September 28th. But regardless of such ordinances, resolutions or proclamations, the change back to Eastern Standard Time will be legally effective in all New Jersey municipalities not at 2:00 A.M. on the morning of Sunday, September 28th but at midnight Saturday, September 27th.

DOMINIC A. CAVICCHIA
Director.

Dated: September 23, 1952.

12. STATE LICENSES - NEW APPLICATIONS FILED.

Gerald Fonsetto, t/a Fonsetto Trucking Service
27 North Street, Bergenfield, N. J.
Application filed September 11, 1952 for transfer of
Transportation License from 1 Foster Street, Bergenfield, N. J.

George Haines
131 Palisade Road, Elizabeth, N. J.
Application filed September 12, 1952 for Transportation License.

Anthony Bottling Co.
S/S Broad St. at Filmore St., Palmyra, N. J.
Application filed September 15, 1952 for additional warehouse at
28 Tyrell Avenue, Trenton, N. J.

Dominic A. Cavicchia

Dominic A. Cavicchia
Director.