

Kremer

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

May 27, 1966.

BULLETIN 1675

ITEM

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New Jersey State Library

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May 27, 1966

BULLETIN 1675

1. DISCIPLINARY PROCEEDINGS - PROCUREMENT FOR PROSTITUTION - PRIOR
DISSIMILAR RECORD - LICENSE SUSPENDED FOR 215 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Club Delite, Inc.)
76 Bank Street)
Newark, N. J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption
License C-22, issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Newark)

Barr, Kaplus & Cohen, Esqs., by Morris Barr, Esq., Attorneys
for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge as follows:

"On Wednesday night, November 24 into Thursday morning, November 25, 1965, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., in that you, through a person employed as bartender on your licensed premises, made offers to male patrons and customers to procure and did procure females to engage in acts of illicit sexual intercourse with them and participated in and allowed, permitted and suffered the making of overtures and arrangements in and upon your licensed premises by said females with male patrons and customers for acts of illicit sexual intercourse, as aforesaid; in violation of Rule 5 of State Regulation No. 20."

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective March 2, 1959, for sale to minors, and by the Director for forty days effective January 16, 1963, for permitting apparent homosexuals on the licensed premises. Re Club Delite, Inc., Bulletin 1495, Item 6.

The prior record of suspension of license for dissimilar violation in 1959 occurring more than five years ago disregarded, the license will be suspended for two hundred ten days (Re Dude's Bar, Inc., Bulletin 1577, Item 1), to which will be added five days by reason of the record of suspension of license for dissimilar violation in 1963 within the past five years (Re Moore, Bulletin 1659, Item 4), or a total of two hundred fifteen days, with remission of five days for the plea entered, leaving a net suspension of two hundred ten days.

Accordingly, it is, on this 6th day of April, 1966,

ORDERED that Plenary Retail Consumption License C-22, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Club Delite, Inc. for premises 76 Bank Street, Newark, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1966, commencing at 2:00 a.m. Wednesday, April 13, 1966; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Wednesday, November 9, 1966.

JOSEPH P. LORDI,
DIRECTOR

2. APPELLATE DECISIONS - SILVER ROD STORES, ET ALS v. JERSEY CITY and TARLOWE.

APPELLATE DECISIONS - JERSEY CITY TAVERN OWNERS ASSOCIATION v. JERSEY CITY and TARLOWE.

Silver Rod Stores, Tube Bar, Inc., Metropolitan Liquor Corp., and Plaza Management Corporation, all New Jersey corporations,)

Appellants,)

v.)

Municipal Board of Alcoholic Beverage Control of the City of Jersey City, and Samuel M. Tarlowe,)

Respondents.)

On Appeal

CONCLUSIONS
and
ORDER

Jersey City Tavern Owners Association,)

Appellant,)

v.)

Municipal Board of Alcoholic Beverage Control of the City of Jersey City, and Samuel M. Tarlowe,)

Respondents.)

Jacob E. Max, Esq., Michael Halpern, Esq. and Samuel Moskowitz, Esq., Attorneys for Appellants Silver Rod Stores, et als.
James F. McGovern, Jr., Esq., Attorney for Appellant Jersey City Tavern Owners Association
T. James Tumulty, Esq., by Joseph S.E. Verga, Esq., Attorney for Respondent Municipal Board of Alcoholic Beverage Control
Cole & Cole, Esqs., by Larry M. Cole, Esq., Attorneys for Respondent Samuel M. Tarlowe

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Two separate appeals were instituted by appellants against the Municipal Board of Alcoholic Beverage Control of the City of Jersey City (hereinafter Board) and Samuel M. Tarlowe, challenging the action of the Board whereby on May 20, 1965, it granted a place-to-place transfer of Plenary Retail Consumption License C-175 from premises 912-920 Bergen Avenue to premises 16 Journal Square, Jersey City. Since these appeals involve the same issues of law and fact, they have been consolidated for hearing and will be the subject of a single report.

The resolution granting the said application was based upon the following decision by the Board:

"The facts are not in dispute. Applicant Tarlowe applies to transfer License C-175 from 912 Bergen Avenue, Jersey City, New Jersey to 16 Journal Square, Jersey City, New Jersey.

"Original application wherein license was transferred to 912-920 Bergen Avenue, Jersey City, New Jersey, was a legal transfer under the rules of the Board.

"The present application must be dealt with standing on its own.

"Under Section 4 of the Municipal Ordinance Adopted April 1, 1941 there are two types of cases which give jurisdiction to this Board to grant transfer.

"Applicant Tarlowe states that he has the consent of the Landlord at premises 912-920 Bergen Avenue, Jersey City, New Jersey, to a vacation of his license and furnished a letter from the Landlord. Objectors have failed to furnish any proof to contradict this evidence.

"Applicant Tarlowe also furnished evidence that he does have the right to possession at premises 16 Journal Square, Jersey City, New Jersey, which is tenanted by Society Caterers, the operators of Mayfair Restaurant.

"In the Tube Bar Case 187 A2nd 341, 18 N.J. Sup. 357, Judge McGeehan on page 342 stated:

"The local board, therefore, lacked power to grant the transfer for two reasons: first, because the applicant did not meet the first condition imposed under the proviso (i.e. Sec. 4 of the Ordinance) and second, because the board did not make a finding sufficient to justify the issuance under the second condition of the proviso. (underscoring supplied)

"In view of the disjunctive interpretation of the ordinance this Board may make a finding if either condition of the ordinance has been met by the applicant. In this matter after having held the hearing on two separate days it is the finding of the Board that applicant has properly applied for a transfer and that he does have a situs for the license at 16 Journal Square, Jersey City, New Jersey and that the landlord does consent to the vacation of the license C-175 from 912-920 Bergen Avenue, Jersey City, New Jersey.

"Accordingly this Board hereby grants its consent to a transfer in accordance with the application on file."

Appellants challenge the action of the Board in their petitions of appeal upon numerous grounds. The principal ground, which I consider meritorious and dispositive of this appeal, concerns the legal propriety of the Board's action in basing its grant of the said transfer upon one of the provisos of Section 4 of an ordinance entitled "An ordinance to limit the number of plenary retail consumption licenses and plenary retail distribution licenses to sell alcoholic beverages at retail in the City of Jersey City" enacted October 5, 1937. This section, which was amended on April 1, 1941 and June 1, 1954, now provides as follows:

"From and after the passage of this ordinance, no Plenary Retail Consumption License shall be granted for or transferred to any premises the entrance of which is within the area of a circle having a radius of seven hundred fifty (750) feet and having as its central point the entrance of an existing licensed premises covered by a Plenary Retail Consumption License, provided, however, that if any licensee shall be compelled to vacate the licensed premises for any reason that in the opinion of the Board of Commissioners of the City of Jersey City was not caused by any action on the part of the licensee, or if the landlord of said licensed premises shall consent to a vacation thereof, said licensee may, in the discretion of the Board of Commissioners of the City of Jersey City, be permitted to have such license transferred to another premises within a radius of five hundred (500) feet of the licensed premises so vacated. The provisions of this section relating to distances between licensed premises shall not apply to the issuance or transfer of any license to premises which will be operated by the licensee as a Bowling Academy. A premises shall be deemed to be operated as a Bowling Academy if it contains four or more pairs of bowling alleys."

(It should be noted that, by ordinance adopted June 1, 1954, a further amendment to Section 4, as amended on April 1, 1941, deletes the words "holding a Plenary Retail Consumption License at the time of the passage of this ordinance." Thus the points raised in appellants' petitions and memoranda with respect to the applicability of the quoted 1941 provision are of no effect.)

It is also apparent that the Board was either unaware of or inadvertently disregarded the June 1, 1954 amendment to Section 4 of the applicable ordinance, with the deletion as noted hereinabove.)

Under the terms of the ordinance, as most recently amended, the Board may grant transfers within the proscribed distance if one of the following two conditions exists: (1) the licensee shall be compelled to vacate the licensed premises for any reason which, in the opinion of the Board, was not caused by any action on the part of the licensee or (2) the landlord of the said licensed premises shall consent to a vacation thereof. It is stipulated by counsel for Tarlowe that the first condition has no applicability to this issue; that, in fact, the Board's action was based upon the second condition considered disjunctively.

It is uncontested that the premises at 16 Journal Square, to which the said license was transferred, is within a radius of 500 feet of the licensed premises so vacated; and the entrance of said premises is within an area of a circle having a radius of

750 feet and having as its central point the entrance of an existing licensed premises covered by a plenary retail consumption license. Thus, in order to qualify for such transfer, applicant had to establish that he came within one of the exceptions provided for in the applicable ordinance. This he sought to establish by offering a letter from his landlord purporting to consent to his vacating the said premises.

At a hearing before the Board appellants objected to the said transfer stating, among other reasons, that there was no need or necessity for the transfer of this license, within the exception set forth in the ordinance, because there were approximately twelve liquor licensed premises within a short distance of the proposed additional premises. Effective May 24, 1965, the license transfer was granted. I shall consider the legal sufficiency of the basis upon which the Board, in its discretion, granted the application for transfer.

As stated hereinabove, the Board granted the license upon the second condition in the ordinance, namely, that Tarlowe had received his landlord's consent for the transfer of his license from 912-920 Bergen Avenue. This consent was in the form of a letter dated January 5, 1965, admitted into evidence, in which the landlord states:

"I request that you remove the liquor license from the premises known as and located at 920 Bergen Avenue, Jersey City, New Jersey for the reason that you are not operating the premises as a bar and as a matter of fact you are not operating your premises. I further request that you remove such license without delay. There are two liquor licenses in this building: one which is operating and the other one, yours, which is not. There is no reason to have that many liquor licenses."

My evaluation and analysis of the second proviso in the ordinance satisfy me that it is unreasonable and clearly opposed to the intent and purposes of the Alcoholic Beverage Law. Indeed, this very provision (of said ordinance) was discussed and found to be unreasonable in Cielukowski v. Jersey City, Bulletin 716, Item 6. In that case it was held:

"... the requiring of the consent of the owner of the property from which a license is to be transferred does not carry out the objects of the Alcoholic Beverage Law. It serves only the private interests of the owners by giving them strangle holds on their tenants whereby refusal to give consent could be made the means of exacting an exorbitant rent. Re DeYoe, Bulletin 278, Item 8. That portion of the ordinance requiring consent of the owners is clearly unreasonable and completely without relation to the purposes of distance regulations."

Furthermore, to allow removal of licenses only with the consent of the landlord would create a device by which licensees could be "jumped" without regard to distance restrictions. It would leave the door open for "deals" between landlords of licensed premises and licensees to gain the consent of the landlord, and thereby qualify for removal to otherwise prohibited locations. Such action would unduly encroach upon the rights and privileges of other licensees within the proscribed area and would do violence to the provisions of the Alcoholic Beverage Law which authorize a municipal issuing authority to limit the number of licenses to sell alcoholic beverages at retail in the community. R.S. 33:1-40.

Counsel for Tarlowe cites Tube Bar, Inc. v. Commuters Bar, Inc., 18 N.J. Super. 351, as authority for the principle that either one of these conditions may be used by the Board in granting the transfer. He argues quite properly that either one of these conditions may be considered disjunctively. However, Tube Bar did not consider the second condition stated herein but concerned itself in so far as is applicable in this case, with the first condition of the present ordinance, viz., that, where the local Board has found that the licensee "shall be compelled to vacate the licensed premises" upon satisfactory proof offered, the Board may act. In Tube Bar the court determined that the Board had made no proper finding that that condition had been met.

A reading of the decision of the Board herein indicates that the Board misread Tube Bar. Tube Bar (18 N.J. Super. at p. 354) considered Section 4 of the ordinance as amended in 1941. At the time, the ordinance included, as one of the requirements for consideration in its exceptions, the fact that the licensee held a plenary retail consumption license at the time of the passage of the amendment thereto in 1941. (This was deleted in the 1954 amendment to the said ordinance.) It held further that the Board in that case did not make a finding sufficient to justify the issuance under the second proviso, namely, that the applicant shall be compelled to vacate the licensed premises. However, it did not discuss the additional proviso on which this Board grounded its grant of the application for the said transfer, namely, that the landlord "shall consent to a vacation thereof." Therefore, Tube Bar is not applicable to the matter sub judice.

Accordingly, I conclude that the Board lacked power to grant the said application for transfer based upon the unreasonable exception provision in Section 4 of the ordinance as amended in 1954.

While it is unnecessary to consider the other meritorious issues raised in appellants' petitions of appeal in view of the disposition as stated hereinabove, I might state that my examination of the testimony satisfies me that there has been no adequate proof that such transfer would serve the best interests of the community or that there is any real public need or necessity for the said transfer to the premises at 16 Journal Square. This has been made abundantly manifest in view of the fact that the area appears to be amply served by present existing facilities. In this connection, it is significant to note that nowhere in the Board's finding of fact is there any assertion that such transfer was based on public need and necessity, or that consideration was given to the lack of present facilities. See Lakewood v. Brandt, 38 N.J. Super. 462; Fanwood v. Rocco, 59 N.J. Super. 306, 323.

The observation more appropriately garnered from a reading of the testimony herein is that this action was designed solely to benefit Tarlowe, who appeared to have serious financial difficulties; in fact, he had been sued for arrears of unpaid rent by his landlord. It was clearly unprofitable for him to operate at his old premises. Regrettable as applicant's circumstances may be, his personal financial situation must be subordinated to the public interest. Bosco v. Jersey City and Smith, Bulletin 1353, Item 1, aff'd 66 N.J. Super. 165 (App.Div. 1961); cf. Silvestri v. Jersey City, Bulletin 1554, Item 2. The ultimate test in the issuance and transfers of such licenses is whether the public good requires it. Blanck v. Magnolia, 38 N. J. 484, 491 (1962).

I find that the action of the Board in granting the transfer herein was unreasonable, unwarranted and without legal sanction. It is therefore recommended that the action of the Board be reversed.

Conclusions and Order

Pursuant to Rule 14, State Regulation No. 15, exceptions to the Hearer's report and argument in support thereof were jointly filed by the attorneys for respondents, and answers to the exceptions were filed jointly by the attorneys for appellants.

It is contended in the exceptions that the Hearer "was required to affirm the determination below" where the requirements of the statute were met and including "where the landlord...shall consent to a vacation" of the premises. It is further contended "that even if the requirement of obtaining the landlord's consent is an unreasonable one, such unreasonableness cannot be used as a basis for denying transfer of a license in a situation where the requirement has been met."

The proper and legally supportable purpose of a distance-between-premises ordinance is to protect the public against an over-concentration of alcoholic beverage licensed establishments in one section of the municipality. Not germane and completely unrelated to such a purpose is the protection of landlords and that is true irrespective of whether, in the particular case, the landlord consents to vacation of the premises or refuses to do so. I find the exception with respect to such consent inapplicable in the instant appeals, and I find that in its reliance upon the exception as the ground for granting of the license transfer, the respondent Board did not exercise a sound, reasonable or proper discretion.

The exceptions further challenge the Hearer's report which concluded that there has been no adequate proof that the transfer would serve the best interests of the community or that there is any real public need or necessity therefor.

At the hearing Commissioner Michael A. Fiore testified as follows:

"...it was my judgment that granting this transfer would not in any way serve as a detriment to the other license holders in the area based upon the large volume of pedestrian traffic in that neighborhood...There's a lot of pedestrian traffic at Journal Square, and another transfer into that area would not matter, would not hurt anybody."

In the face of the record herein, which shows an abundance of licensed places in the immediate neighborhood, the Commissioner was saying, in effect "plenty of business to go round; no one will be hurt very much." The testimony may be taken to bear, obliquely, upon the question of public necessity and convenience. Finding, as I do, that respondent Board's granting of the transfer on the ground of the landlord's consent was not in exercise of a sound, reasonable or proper discretion, it is not necessary for me to make a finding in the matter of public convenience and necessity and I make no such finding.

Reference is made to that portion of the Hearer's report setting forth that "to allow removal of a license only with the consent of the landlord would...unduly encroach upon the rights and privileges of other licensees within the prescribed area." In that

connection I remark that, as with respect to a distance ordinance's purported protection of landlords, the protection of licensees against close-in competition would not constitute a proper and legally supportable purpose of a distance-between-premises ordinance.

Having carefully examined the entire record herein, including the transcript of the testimony, the exhibits, the memoranda in summation of counsel for appellants and for respondents, the Hearer's report, the written exceptions and argument and the answers thereto with supporting argument, I endorse the Hearer's recommendation; and I find that appellants have sustained the burden of establishing that the action of respondent Board was erroneous and should be reversed. (Rule 6, State Regulation No. 15.)

Accordingly, it is, on this 1st day of April, 1966,

ORDERED that the action of respondent Board be and the same is hereby reversed.

Joseph P. Lordi,
Director

DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - FOUL LANGUAGE - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

William R. Zukas & Stella E. Zukas)
t/a Saratoga Inn)
1 Griffith Street)
Salem, N. J.)

CONCLUSIONS
AND
ORDER

Holders of Plenary Retail Consumption License C-9, issued by the Common Council of the City of Salem)

W. T. Hilliard 3rd, Esq., Attorney for Licensees.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to charges alleging that on February 26, 1966, they (1) sold a pint bottle of whiskey for off-premises consumption, in violation of Rule I of State Regulation No. 38, (2) permitted foul, filthy and obscene language by management personnel and patrons on the licensed premises, in violation of Rule 5 of State Regulation No. 20, and (3) hindered investigation by agents of the Division by refusal to furnish requested information, in violation of R.S. 33:1-35.

Absent prior record, the license will be suspended on the first charge for fifteen days (Re Napoli, Bulletin 1664, Item 8), on the second charge for ten days (Re Hauge, Bulletin 1629, Item 3), and on the third charge for ten days (Re Edward J. Power, Inc., Bulletin 1487, Item 5), or a total of thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days.

Accordingly, it is, on this 5th day of April, 1966,

ORDERED that Plenary Retail Consumption License C-9, issued by the Common Council of the City of Salem to William R. Zukas and Stella E. Zukas, t/a Saratoga Inn, for premises 1 Griffith Street, Salem, be and the same is hereby suspended for thirty (30) days, commencing at 12:01 a.m. Tuesday, April 12, 1966, and terminating at 12:01 a.m. Thursday, May 12, 1966.

Joseph P. Lordi,
Director

4. DISCIPLINARY PROCEEDINGS - HOSTESS ACTIVITY - INDECENT ENTERTAINMENT - FOUL LANGUAGE - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Castaways Inc.)
t/a Zeeny's Tavern)
621 Second Avenue)
Elizabeth, N. J.)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-105, issued by the City Council of the City of Elizabeth)

Licensee, by Mario DeSalvo, President, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on March 12 and 18-19, 1966, it permitted female bartenders and a female entertainer to accept drinks at the expense of patrons, in violation of Rule 22 of State Regulation No. 20, and (2) on March 18-19, 1966, it permitted indecent conduct by a female entertainer and foul, filthy and obscene language by the entertainer and patrons, in violation of Rule 5 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for twenty days effective January 17, 1966, for sale to minors.

The license will be suspended on the first charge for twenty days (Re Long, Bulletin 1666, Item 2) and on the second charge for ten days (Re Samjo Corporation, Bulletin 1650, Item 1), to which will be added five days by reason of the record of suspension of license for dissimilar violation occurring within the past five years (Re Long, supra) or a total of thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days.

Accordingly, it is, on this 6th day of April, 1966,

ORDERED that Plenary Retail Consumption License C-105, issued by the City Council of the City of Elizabeth to Castaways Inc., t/a Zeeny's Tavern, for premises 621 Second Avenue, Elizabeth, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. Wednesday, April 13, 1966, and terminating at 2:00 a.m. Friday, May 13, 1966.

JOSEPH P. LORDI,
DIRECTOR

5. DISQUALIFICATION REMOVAL PROCEEDINGS - SOLICITING FOR PROSTITUTION - ORDER REMOVING DISQUALIFICATION.

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. 1993
-----)

Robert C. Gruhin, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

Petitioner's criminal record discloses that on June 20, 1952, following a plea of non vult in the Hudson County Court to a charge of soliciting in violation of R.S. 2:158-2e, he was sentenced to serve one year in the county penitentiary (suspended), fined \$100.00 and placed on probation for two years.

Since the crime of which petitioner was convicted involves the element of moral turpitude, he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

The records of this Division disclose that petitioner was employed as a bartender in a retail consumption licensed premises during 1950 and that his employer's license was revoked by this Division on March 14, 1951 on charges involving the petitioner's arranging for illicit sexual intercourse between a patron and a prostitute. Re Schumacher, Bulletin 901, Item 5.

At the hearing held herein, petitioner (43 years old) testified that he is married and living with his wife; that for the past fifteen years has lived in two neighboring municipalities; that he has been employed as a packer by one company for twenty-three years last past and that he had also been employed as a part time bartender in 1948 and in 1950.

Petitioner further testified that he is asking for the removal of his disqualification to be free to engage in the alcoholic beverage industry in this State and that, ever since his conviction in 1952, he has not been convicted of any crime or arrested.

Petitioner produced three character witnesses (two packers and a New Jersey licensed real estate and insurance broker) who testified that they have known petitioner for more than five years last past and that, in their opinion, he is now an honest, law-abiding person with a good reputation.

The Police Department of the municipality wherein the petitioner resides reports there are no complaints or investigations presently pending against the petitioner.

I hesitate to grant the relief sought herein because of petitioner's participation in the above described prohibited activity on licensed premises. Cf. Re Case No. 1966, Bulletin 1654, Item 7. However, I am favorably influenced to grant the relief sought herein by four factors, (a) petitioner's criminal record shows only one conviction which took place about fourteen years

ago, (b) his record of employment, (c) the testimony of his character witnesses and (d) his present attitude.

Considering all of the aforesaid facts and circumstances, I am satisfied that petitioner has conducted himself in a law-abiding manner for five years last past, and that his association with the alcoholic beverage industry in this State will not be contrary to the public interest.

Accordingly, it is, on this 5th day of April, 1966,

ORDERED that petitioner's statutory disqualification, because of the conviction described herein, be and the same is hereby removed in accordance with the provisions of R.S. 33:1-31.2.

JOSEPH P. LORDI,
DIRECTOR

6. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto.Susp.#275)	
In the Matter of a Petition to Lift)	
the Automatic Suspension of Plenary)	On Petition
Retail Distribution License D-2,)	
Issued by the Borough Council of)	SUPPLEMENTAL ORDER
the Borough of Jamesburg to)	
)	
Charles Novak and Steve Kapitan)	
63 E. Railroad Avenue)	
Jamesburg, N. J.)	
-----)	

BY THE DIRECTOR:

On March 9, 1966, an order was entered herein temporarily staying statutory automatic suspension of license of licensees-petitioners pending determination of disciplinary proceedings against them.

It now appears that in disciplinary proceedings conducted by the municipal issuing authority, the license was suspended for four days effective 12:01 a.m. April 11, 1966, and terminating at midnight April 14, 1966, on a charge alleging sale of alcoholic beverages to the same minor, which sale was the subject of the previous criminal conviction. Hence, I shall lift the automatic suspension in anticipation of the service of the municipal suspension. Re Klara, Bulletin 1666, Item 3.

Accordingly, it is, on this 5th day of April, 1966,

ORDERED that the statutory automatic suspension of said license D-2 be and the same is hereby lifted, effective midnight Thursday, April 14, 1966.

JOSEPH P. LORDI,
DIRECTOR

7. DISQUALIFICATION REMOVAL PROCEEDINGS - THEFT OF MAIL UNLAWFUL CO-HABITATION WITHIN PAST FIVE YEARS CONSIDERED NOT LAW-ABIDING CONDUCT - ORDER DENYING PETITION.

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. 1989)
-----)

BY THE DIRECTOR:

Petitioner's criminal record discloses that he was convicted in New York in 1938 for unlawful entry, in 1941 in the Monmouth County Court for carrying a concealed weapon, in 1943 by court martial for desertion from the United States Naval Service, and in 1950 in a federal court in New York for theft of mail; that on his first conviction he received a suspended sentence and was placed on probation for one year, on his second conviction he was sentenced to Rahway Reformatory (suspended) and fined \$100, on his third conviction he was sentenced to serve two years in the naval prison at Portsmouth, N. H., and on his last conviction he was sentenced to serve a year and a day in the Federal Correctional Institution at Danbury, Conn. (paroled March 1951).

It further appears that twenty-five years ago, petitioner was convicted for disorderly conduct and for a motor vehicle violation.

Since petitioner's conviction in 1950 for theft of mail involves the element of moral turpitude, he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25,26. In view of this, it is unnecessary to determine whether or not petitioner's other convictions, outlined above, involve that element.

Petitioner's convictions as a disorderly person and for a motor vehicle violation are not convictions of crime.

At the hearing held herein, petitioner (46 years old) admitted that for eleven years last past and at the present time, he has been living with a woman who is not his legal wife.

Although more than five years have elapsed since his parole in 1951, I cannot consider that petitioner has been law-abiding during that period of time because of his unlawful cohabitation. Re Case No. 845, Bulletin 878, Item 10; Re Case No. 704, Bulletin 820, Item 8; Re Case No. 1391, Bulletin 1216 Item 3.

Accordingly, it is, on this 6th day of April, 1966,

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

JOSEPH P. LORDI,
DIRECTOR

8. DISQUALIFICATION REMOVAL PROCEEDINGS - MURDER - ATROCIOUS ASSAULT AND BATTERY - BOOKMAKING - REMOVAL NOT DEEMED WARRANTED IN PUBLIC INTEREST - ORDER DENYING PETITION.

In the Matter of an Application to)
 Remove Disqualification because of)
 a Conviction, Pursuant to R.S. 33:)
 1-31.2)
 Case No. 1996)
 -----)

CONCLUSIONS
 AND
 ORDER

BY THE DIRECTOR:

Petitioner requests the entry of an order removing his statutory disqualification resulting from four convictions of crime involving moral turpitude.

The following is a summary of petitioner's record of convictions of crime:

1925 Murder (2nd degree) - sentenced to New Jersey State Prison; 7 to 15 years; paroled December 15, 1930

Feb. 20, 1933 Atrocious assault and battery - sentenced to New Jersey State Prison; 13 months to 3 years; paroled December 20, 1933

Feb. 5, 1936 Atrocious assault and battery - sentenced to New Jersey State Prison; 3 to 7 years; paroled March 6, 1940

Dec. 22, 1960 Bookmaking - sentenced to New Jersey State Prison; 3 to 5 years (suspended), probation 3 years; fined \$1,000.

At the hearing held herein, petitioner (69 years old) testified that he is married and living with his wife; that for the past thirteen years he has lived at his present address; that he has been retired and unemployed for five years last past; that he and his wife maintain themselves on his monthly pension of \$105, her social security monthly benefits of \$46, and annual dividends of \$500; that he owns the house in which they reside, and that, prior to his retirement, he was in the hat-cleaning business for nine years where he was last arrested for bookmaking, as aforesaid,

Petitioner further testified he is asking for the removal of his disqualification to be free to accept employment in the alcoholic beverage industry in this State to supplement his income and that, ever since his conviction in 1960, he has not been convicted of any crime or arrested.

Petitioner produced three character witnesses (two retired maintenance men and a retired assembler) who testified that they have known petitioner for more than five years last past and that in their opinion he is now an honest, law-abiding person with a good reputation.

The Police Department of the municipality wherein the petitioner resides reports that there are no complaints or investigations presently pending against petitioner.

To afford petitioner the relief requested, it is necessary that I find that he has been conducting himself in a law-abiding manner for five years last past and that his association with the alcoholic beverage industry will not be contrary to the public interest. See R.S. 33:1-31.2.

While more than five years have elapsed since his conviction in 1960, I am not satisfied by reason of petitioner's criminal record that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 7th day of April, 1966,

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

JOSEPH P. LORDI,
DIRECTOR

9. STATUTORY AUTOMATIC SUSPENSION - ORDER STAYING SUSPENSION.

Auto.Susp. #278)	
In the Matter of a Petition to Lift)	
the Automatic Suspension of Plenary)	On Petition
Retail Consumption License C-160,)	
Issued by the Board of Commissioners)	O R D E R
of the City of Passaic to)	
)	
Verner Edwin Walli)	
t/a Waldorf Beer, Wine & Liquors)	
473 Main Avenue)	
Passaic, N. J.)	

John J. Bergin, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division that on March 28, 1966, licensee-petitioner was fined \$50 and \$5 costs in the Passaic Municipal Court after plea of guilty to a charge of sale of alcoholic beverages to a minor on March 15, 1966, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of petitioner's license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that disciplinary proceedings are in contemplation but have not yet been instituted by the municipal issuing authority against the licensee because of said sale of alcoholic beverages to the minor. In fairness to petitioner, I conclude that at this time the effect of the automatic suspension should be temporarily stayed. Re Kornblau, Bulletin 1662, Item 7.

Accordingly, it is, on this 18th day of April, 1966,

ORDERED that the aforesaid automatic suspension of license C-160 be stayed pending the entry of a further order herein.

JOSEPH P. LORDI,
DIRECTOR

ACTIVITY REPORT FOR APRIL 1966

ARRESTS:		
Total number of persons arrested - - - - -		36
Licensees and employees - - - - -	25	
Bootleggers - - - - -	11	
SEIZURES:		
Motor vehicles - cars - - - - -		1
Stills - 50 gallons or under - - - - -		1
Alcohol - gallons - - - - -		8.46
Mash - gallons - - - - -		275
Distilled alcoholic beverages - gallons - - - - -		1.68
Wine - gallons - - - - -		3
Brewed malt alcoholic beverages - gallons - - - - -		4.72
RETAIL LICENSEES:		
Premises inspected - - - - -		643
Premises where alcoholic beverages were gauged - - - - -		515
Bottles gauged - - - - -		7,901
Premises where violations were found - - - - -		63
Violations found - - - - -		88
Unqualified employees - - - - -	46	Other mercantile business - - - - - 2
Application copy not available - - - - -	19	Other violations - - - - - 17
Reg. #38 sign not posted - - - - -	4	
STATE LICENSEES:		
Premises inspected - - - - -		21
License applications investigated - - - - -		10
COMPLAINTS:		
Complaints assigned for investigation - - - - -		367
Investigations completed - - - - -		376
Investigations pending - - - - -		244
LABORATORY:		
Analyses made - - - - -		59
Refills from licensed premises - bottles - - - - -		54
Bottles from unlicensed premises - - - - -		1
IDENTIFICATION:		
Criminal fingerprint identifications made - - - - -		13
Persons fingerprinted for non-criminal purposes - - - - -		555
Identification contacts made with other enforcement agencies - - - - -		313
Motor vehicle identifications vja N.J. State Police teletype - - - - -		3
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities - - - - -		6
Violations involved - - - - -		6
Sale during prohibited hours - - - - -	4	
Sale to minors - - - - -	2	
Cases instituted at Division - - - - -		23
Violations involved - - - - -		36
Sale to minors - - - - -	5	Aiding & abetting unlawful transp. - - - - - 1
Fraud in application - - - - -	4	Permitting gambling on premises - - - - - 1
Beverage Tax Law non-compliance - - - - -	3	Unqualified employees - - - - - 1
Permitting immoral activity on prem. - - - - -	3	Solicitor employed by retailer - - - - - 1
Sale during prohibited hours - - - - -	3	Combination sale - - - - - 1
Conducting business as a nuisance - - - - -	2	Sale at discount - - - - - 1
Permitting hostesses on premises - - - - -	2	Sale below filed price - - - - - 1
Sale to non-members by club - - - - -	2	Failure to close prem. during prohibited hours - - - - - 1
Hindering investigation - - - - -	2	Serving females at bar (local reg.) - - - - - 1
Substituting drink other than ordered - - - - -	1	
Cases brought by municipalities on own initiative and reported to Division - - - - -		15
Violations involved - - - - -		16
Sale to minors - - - - -	11	Failure to close prem. during prohibited hours - - - - - 1
Permitting gambling on premises - - - - -	1	Permitting loitering by minors unaccomp. by adults (local reg.) - - - - - 1
Sale during prohibited hours - - - - -	1	
Conducting business as a nuisance - - - - -	1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held - - - - -		43
Appeals - - - - -	5	Eligibility - - - - - 6
Disciplinary proceedings - - - - -	30	Tax revocations - - - - - 2
STATE LICENSES AND PERMITS ISSUED:		
Total number issued - - - - -		3,500
Licenses - - - - -	1	Social affair permits - - - - - 388
Solicitors' permits - - - - -	42	Miscellaneous permits - - - - - 279
Employment permits - - - - -	2,699	Transit insignia - - - - - 34
Disposal permits - - - - -	54	Transit certificates - - - - - 2
Wine permits - - - - -	1	
OFFICE OF AMUSEMENT GAMES CONTROL:		
Licenses issued - - - - -	100	
Enforcement files established - - - - -	18	

JOSEPH P. LORDI
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

11. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #276)
 In the Matter of A Petition to Lift)
 the Automatic Suspension of Plenary)
 Retail Consumption License C-50,)
 Issued by the Municipal Board of)
 Alcoholic Beverage Control of the)
 City of Camden to)

On Petition
 SUPPLEMENTAL ORDER

Pavonia House, Inc.)
 t/a Pavonia House)
 948 North 26th Street)
 Camden, N. J.)
 -----)

John H. Hohrfeld, III, Esq., Attorney for Petitioner.

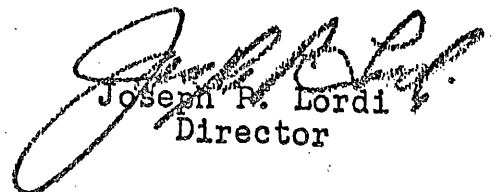
BY THE DIRECTOR:

On March 16, 1966, an order was entered herein temporarily staying statutory automatic suspension of license of licensee-petitioner pending determination of disciplinary proceedings against it.

It now appears that in disciplinary proceedings conducted by the municipal issuing authority, the license was suspended for five days effective 2:00 a.m. April 18, 1966, and terminating at 2:00 a.m. April 23, 1966, on a charge alleging sale of alcoholic beverages to the same minor, which sale was the subject of the previous criminal conviction. Hence, I shall lift the automatic suspension in anticipation of the service of the municipal suspension. Re Klara, Bulletin 1666, Item 3.

Accordingly, it is, on this 18th day of April, 1966,

ORDERED that the statutory automatic suspension of said license C-50 be and the same is hereby lifted effective 2:00 a.m. Saturday, April 23, 1966.


 Joseph P. Lordi
 Director