

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

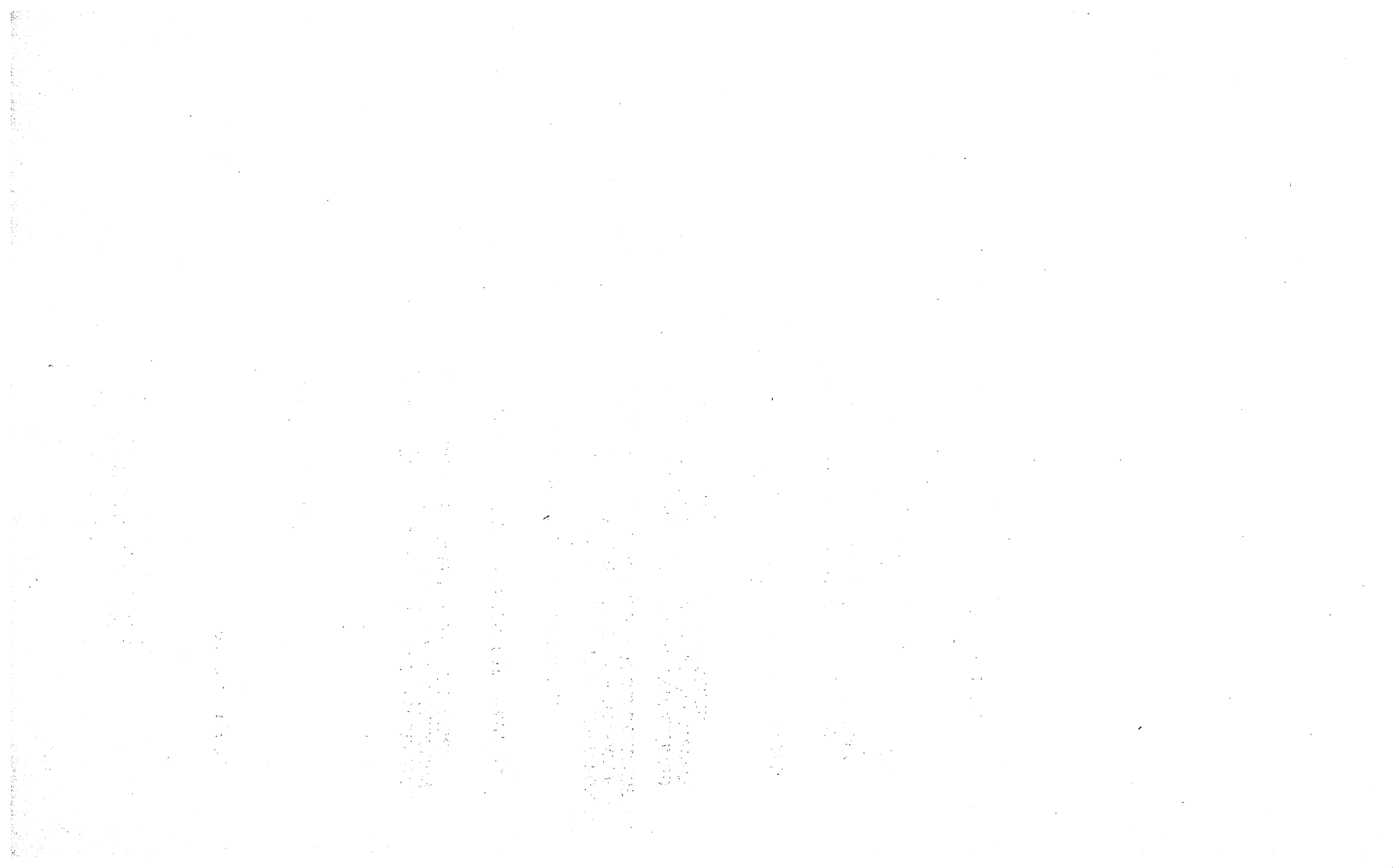
BULLETIN 1279

JUNE 10, 1959.

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DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1279

JUNE 10, 1959.

1. STATE REGULATIONS - REGULATION NO. 30 - AMENDED REGULATION EFFECTIVE APRIL 1, 1959 - OPERATION OF AMENDED REGULATION EFFECTIVE APRIL 1, 1959 STAYED BY COURT - PRE-EXISTING REGULATION REINSTATED.

NOTICE TO ALL MANUFACTURERS, WHOLESALERS AND RETAILERS:

On March 16, 1959, I promulgated amended State Regulation No. 30, effective April 1, 1959, which, among other things, required the filing of minimum consumer resale prices for private label brands and exclusive brands of alcoholic beverages and the maintenance of such minimum prices for a quarter-annual period.

A suit has been filed in the New Jersey Superior Court, Appellate Division, to test the validity of that amendment, and an order was entered on May 28, 1959 staying the operation of the amendment pending final disposition of the proceedings.

Accordingly, no minimum consumer resale prices need be filed for private label brands and exclusive brands of alcoholic beverages until further notice. Meanwhile, State Regulation No. 30, as it existed immediately prior to April 1, 1959, has been reinstated, effective May 28, 1959, when the aforementioned court order was entered.

WILLIAM HOWE DAVIS
Director.

Dated: May 29, 1959.

2. APPELLATE DECISIONS - MING'S CHINESE RESTAURANT, INC. v. TEANECK.

MING'S CHINESE RESTAURANT, INC.,)
Appellant,)
-vs-)
TOWNSHIP COUNCIL OF THE TOWNSHIP)
OF TEANECK,)
Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

John J. Deeney, Esq., Attorney for Appellant.
Leland F. Ferry, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of the respondent Township Council in denying appellant's application for a plenary retail consumption license for premises 483 Cedar Lane, Teaneck.

"Three members of the respondent Council and the mayor voted to deny the application. The other member of the Council abstained from voting because of his association with the liquor industry in this State.

"It appears from the record herein that, at regular Council meetings on October 21 and November 4, 1958, respectively, an amendment to the then existing ordinance governing

the sale and distribution of alcoholic beverages was approved by respondent Council. The amendment reads as follows:

'Section 5A. No more than two Restaurant Plenary Retail Licenses shall be outstanding in the Township of Teaneck at the same time. This shall not prevent the renewal of such licenses outstanding upon the adoption of this Ordinance.'

"At the time of the approval of the said amendment there were two restaurant plenary retail licenses issued in the Township. The record further discloses that on October 22, 1958 appellant filed its application for a plenary retail consumption license to be used in conjunction with its restaurant. On November 2 and 9, 1958, notice of such application was published in The Sunday News, a newspaper published in the Township of Teaneck. Thereafter, on November 18, 1958, at a regular meeting of the respondent Council, appellant's application was denied for the expressed reason that the municipal ordinance then in effect restricted the issuance of said license.

"Appellant contends that the passage of the amendment to the ordinance by the respondent Council was arbitrary and unreasonable and was done primarily for the purpose of preventing the issuance of a license to appellant.

"Appellant has been operating a restaurant, without a liquor license, at its present location since December 1955. The mayor and two of the councilmen who voted to deny the issuance of the license to appellant testified that they approved the amendment to the ordinance to limit the number of liquor licenses similar to that applied for by appellant because they were of the opinion that such limitation of licenses was conducive to the best interests of the people residing in the municipality. The mayor expressed the opinion that 'we have all the liquor distribution licenses that are necessary for the Township.' There was no evidence presented herein which could in any manner imply improper motivation on the part of the respondent issuing authority.

"I might mention that where an application for a license has been filed prior to the approval of a limitation ordinance and where the action of the governing body was not arbitrary or unreasonable, the well established general rule is 'that it is not the status of the law prevailing at the time of application for a license or permit that controls, but the status of the law prevailing at the time the decision of the court or agency is rendered. Socony-Vacuum Oil Co., Inc. v. Mt. Holly Township, 135 N.J.L. 112 (Sup. Ct. 1947); Franklin Stores Co. v. Elizabeth, Bulletin 61, Item 1; Bock Tavern, Inc. v. Newark, Bulletin 952, Item 1.' Cohen v. Wrightstown, Bulletin 1064, Item 1.

"After considering all of the evidence presented in the instant case, there is no indication that the action of the respondent Council was improper, arbitrary or so unreasonable as to amount to an abuse of discretion warranting the reversal of its action.

"The burden of establishing that respondent's action was erroneous and should be reversed rests with the appellant. Rule 6 of State Regulation No. 15. Under all the facts and circumstances in this case, I find that the appellant has failed to sustain this burden. I, therefore, recommend that an order be entered affirming the action of the respondent and dismissing the appeal."

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

Having carefully considered all the facts and circumstances herein, I concur in the Hearer's finding and conclusions and adopt his recommendation.

Accordingly, it is, on this 21st day of April, 1959,

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

WILLIAM HOWE DAVIS
Director.

3. APPELLATE DECISIONS - GRANT LUNCH CORP. v. NEWARK.

GRANT LUNCH CORP.,)	
)	
Appellant,)	
)	
-vs-)	ON APPEAL
)	CONCLUSIONS AND ORDER
MUNICIPAL BOARD OF ALCOHOLIC)	
BEVERAGE CONTROL OF THE CITY)	
OF NEWARK,)	
)	
Respondent.)	

 Kasen, Schnitzer & Kasen, Esqs., by Daniel G. Kasen, Esq.,
 Attorneys for Appellant.
 John J. Clancy, Esq., of Counsel.
 Vincent P. Torppey, Esq., by James E. Abrams, Esq., Attorney
 for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Board whereby on March 11, 1958, by unanimous resolution it found appellant guilty on one of two charges preferred against it on December 12, 1957, and suspended its license for a period of twenty days effective April 7, 1958. Appellant's premises are located at 197-205 Market Street and 6-8 Beaver Street, Newark.

"Upon the filing of the appeal an order was entered on April 1, 1958, staying respondent's order of suspension until entry of a further order herein. R. S. 33:1-31.

"The charge upon which respondent's action was predicated alleged facts constituting a violation of Rule 1 of State Regulation No. 20, the pertinent language of which prohibits in or upon licensed premises the sale, service or delivery of alcoholic beverages to or the consumption of such beverages by 'any person actually or apparently intoxicated.'

"In its petition of appeal appellant alleges that the action of respondent was erroneous in that its findings were an abuse of discretion and against the weight of the evidence; that the penalty imposed was excessive, and that the entire proceedings

did not afford appellant a fair hearing in accordance with the United States and the New Jersey State Constitutions.

"Respondent in its answer denies appellant's allegations and states that the grounds upon which it made its decision were based upon the factual testimony adduced before it.

"The hearing herein was held de novo pursuant to Rule 6 of State Regulation No. 15, and the transcript of the proceedings before respondent Board was received in evidence and additional testimony was produced pursuant to Rule 8 of the same Regulation.

"Succinctly stated, the transcript of the proceedings before respondent Board discloses that three State ABC agents testified that on Friday night, August 23, 1957, they visited appellant's licensed premises and observed at the bar therein a patron who appeared to be under the influence of intoxicating liquors consuming beer which was served to him by Philip Cocuzza (one of the licensee's bartenders). Fixing their attention on the suspect, they noted that his clothes were disheveled, his eyes were bloodshot, his hair was unruly, his speech was incoherent, he used profanity and was unsteady on his feet, and they concluded that the man was intoxicated. Approaching the man, they identified themselves and seized for evidential purposes the unconsumed portion of the beer he was drinking and ascertained that his name was Raymond Bannon. They then informed Philip Cocuzza and Morris Rubin (manager of the licensed establishment) of the violation, and, at Rubin's request that a medical opinion be obtained as to the sobriety of the man, they took Bannon to the Newark Police Academy where he was examined by Dr. O'Connor, assistant police surgeon. Thereafter Bannon was returned to the licensed premises where he was served a cup of black coffee.

"Dr. O'Connor testified that he examined Bannon at 2:00 a.m. August 24, 1957, at the Newark Police Academy, and that it was his opinion that the subject was under the influence of intoxicating liquor. He testified further that Bannon at the time informed him that he had been drinking for several days.

"Raymond Bannon testified that he was 'cabaretting' in every cabaret and tavern in the City of Newark from early morning Wednesday to the following Friday night August 23, 1957, 'stopping only to eat and sleep,' and that he spent \$155.00 during that period. He testified further that 'I am not the one to decide when I am drunk' and that the doctor examined him at the First Precinct Police Station. When asked if on the night alleged he had told one of the agents that he was drunk he replied 'I won't say that I was drunk. I know that if I told him that, that they usually put you in jail and I don't enjoy being in jail.'

"Henderson Farrell testified that he is a special police officer employed by appellant; that he was on duty on the night alleged and that Bannon 'didn't seem to be drunk to me.'

"Philip Cocuzza testified that he has been a bartender for fourteen years, is employed by appellant, and that on the night alleged 'I might have served him (Bannon) one or two glasses of beer. If I did he was sober.'

"Philip Schachter testified that he is appellant's night manager; that he was on duty on the night alleged, and that from his observation Bannon 'was as sober as anybody else.'

"At the hearing on appeal Morris Rubin, Dr. Paul A. O'Connor and Dr. John Pinderhughes were called as witnesses for the appellant, and the three ABC agents were again cross-examined at great length.

"Morris Rubin testified that he is the manager of appellant's licensed premises; that he was present on the night alleged; that he had an opportunity to observe Bannon, whose general appearance was 'the same as anybody else's;' that he didn't appear to be drunk, 'he walked pretty straight, yes. He didn't wobble, or anything,' and that 'He spoke fairly straight.' He testified further that it was not he but Agent McDermott who insisted that Bannon be examined as to his sobriety.

"Dr. O'Connor testified that without an examination he couldn't have determined that Bannon was under the influence of alcohol.

"Dr. Pinderhughes, qualifying as an expert, testified that from a medical standpoint it is 'extremely hazardous' to form an opinion that a particular person is under the influence of alcohol without examining him.

"In a memorandum submitted by appellant's attorney it is contended that (a) determination on the appeal as to appellant's guilt must be predicated upon a finding that Bannon was 'actually intoxicated;' (b) there are grave discrepancies in the testimony of the ABC agents; (c) the Hearer's ruling that the agents' reports may not be produced for inspection and use on cross-examination 'is contrary to the law of New Jersey.'

"As to (a): Respondent Board determined that appellant was guilty of permitting in and upon its licensed premises the sale of alcoholic beverages to, and the consumption of such beverages by, a person actually or apparently intoxicated. The appeal is from that determination.

"As to (b): Although the record discloses a few discrepancies in the testimony of one of the agents, they pertain to what occurred outside the licensed premises and after the investigation was completed and may reasonably be said to be due to the length of time which elapsed between August 23, 1957, when the investigation was made, and November 6, 1958, when the hearing on appeal was concluded.

"As to (c): It is the established policy of the Director that agents' reports be viewed as confidential communications to the Director by his subordinates and are not to be made available to licensees or their attorneys for inspection for any purpose.

Considering the facts and circumstances herein and the legal principles applicable thereto I find that:

"1. Notwithstanding the exhaustive cross-examination of the agents, their testimony respecting the material facts in issue remained unshaken.

"2. 'Whether a man is sober or intoxicated is a matter of common observation, not requiring any special knowledge or skill.' Castner v. Sliker, 33 N.J.L. 95; Searles v. Public

Service Ry. Co., 100 N.J.L. 222; and that 'Expert qualification is not necessary to testify as to drunkenness.' McHugh v. Borough of Hasbrouck Heights, 144 A 799.

"3. The testimony of the agents clearly establishes that the licensee permitted the sale of alcoholic beverages to and the consumption of such beverages by a person actually, or apparently, intoxicated.

"4. The penalty imposed by respondent Board was not excessive for it has long been established that the quantum of penalty rests within the sound discretion of the local issuing authority and will not be disturbed on appeal unless it is clearly excessive and manifestly unreasonable. Engelhorn v. Belmar, Bulletin 1083, Item 1.

"5. There is nothing in the record to indicate that respondent Board abused its discretion or that appellant was not afforded a fair and impartial hearing.

"I conclude, therefore, that appellant has failed to establish by a fair preponderance of the evidence that the action of respondent Board was erroneous, and I recommend that an order be entered affirming respondent's action and dismissing the appeal. I recommend further that the twenty-day-suspension heretofore imposed by respondent Board be reimposed and reinstated against appellant's license."

Written exceptions to the Hearer's Report, together with written argument in substantiation thereof, were filed with me by appellant's attorneys pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including the transcripts of the testimony adduced before respondent Board and testimony on the appeal, the Hearer's Report and the exceptions and argument filed, I concur in the Hearer's findings and conclusions and adopt his recommendations.

Accordingly, it is, on this 23rd day of April, 1959,

ORDERED that the action of respondent Board be and the same is hereby affirmed and that the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that the twenty-day-suspension heretofore imposed by respondent Board, and stayed during the pendency of these proceedings, be reinstated against the license held by appellant for premises 197-205 Market Street and 6-8 Beaver Street, Newark, to commence at 2:00 a.m. Friday, May 1, 1959, and terminate at 2:00 a.m. Thursday, May 21, 1959.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES - OBSCENE LANGUAGE - OBSCENE OBJECT - NUISANCE - FALSE ANSWER IN APPLICATION - PRIOR RECORD - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against FRANK DIRUGGIERO t/a THREE STAR BAR & GRILL 89 Speedwell Avenue Morristown, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-22, issued by the Board of Aldermen of the Town of Morristown.

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On December 28, 1958, January 7 and 8, 1959, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., in that you and a person employed on your licensed premises participated with and allowed, permitted and suffered the making of overtures and arrangements by a female patron or customer for acts of perverted sexual arrangements with male patrons and customers; in violation of Rule 5 of State Regulation No. 20.

"2. On December 28, 1958, January 7 and 8, 1959, you allowed, permitted and suffered foul, filthy and obscene language and conduct in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20.

"3. On January 7 and 8, 1959, and prior thereto, you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing an obscene, indecent, filthy, lewd, lascivious and disgusting representation in form of a wooden object, approximately 2" in diameter and 9" in length; in violation of Rule 17 of State Regulation No. 20.

"4. On December 28, 1958, January 7 and 8, 1959, you conducted your licensed place of business in a manner offensive to common decency and public morals and in such manner as to become a nuisance; in violation of Rule 5 of State Regulation No. 20.

"5. In your application filed with the Board of Aldermen of the Town of Morristown, and upon which you obtained your current plenary retail consumption license, you, while revealing, in answers to Questions Nos. 33 and 34, a suspension of your license for the 1951-52 period, suppressed therein and in answer to Question No. 41, which asks: 'Have you or has any person mentioned in this application ever had any interest, directly or indirectly, in any alcoholic beverage license or permit in New Jersey or any other state which was surrendered, suspended, revoked or cancelled?' (to which question you stated 'No') the

the material fact that your license for the 1954-55 period had been suspended for 5 days, effective August 16, 1954, for a mislabeled beer tap on your licensed premises contrary to State regulation; in violation of R. S. 33:1-25."

ABC agents visited defendant's licensed premises on December 28, 1958 and again on the evening of January 7, when they remained on said premises until the early morning of January 8, 1959.

The file discloses that on December 28, 1958 two agents entered defendant's premises at 12:05 a.m., at which time they observed among other patrons a female called Ruth who engaged in conversation with the bartender (subsequently identified as James McDonald) concerning the whereabouts of Ruth's daughter; that during the conversation the bartender changed a remark made by Ruth so as to connote something apart from its literal meaning and, while laughing, glanced at the agents to receive their approbation; that one of the agents asked the bartender about females and, in response thereto, the bartender nodded toward Ruth remarking that she would engage in perverted or illicit sexual activities for a fee of \$5.00; that thereafter the agents observed a male patron purchase a drink for Ruth and the male patron then left the premises, followed shortly thereafter by Ruth. The bartender informed the agents that Ruth frequented the premises quite often and would be back with her daughter on the following week. The defendant was in and about the premises while the agents were there.

On January 7, 1959, at about 10:00 p.m., the two agents who had been in defendant's premises on the previous occasion entered the defendant's establishment and another agent who had accompanied them to the premises remained outside. Ruth was observed seated at the bar as were several male patrons and McDonald was again tending bar. The agents asked McDonald if Ruth were available that evening and whether the price formerly quoted by him for Ruth to engage in an unnatural act was the same and McDonald answered in the affirmative. One of the agents suggested that the bartender speak to Ruth and, when he did so, Ruth exposed her breast at the same time relating to the patrons who were present a disgusting and perverted incident engaged in with a man. This provoked laughter from her listeners. Thereafter, Ruth danced with one of the agents and, while so doing, again exposed her breast and unzipped the front of the agent's trousers. Thereafter, the indecent activity and filthy language of Ruth became so sordid that a description or repetition thereof would shock one's sensibilities. Ruth continued her disgraceful behavior toward another agent and also toward the defendant. The latter told the bartender to obtain an indecent object from a cabinet under the back bar to show to Ruth. The bartender did as directed and permitted all the patrons to examine the object.

The file further discloses that, sometime thereafter, Ruth danced with one of the agents, at which time she proposed that the agent permit her to perform a perverted sex act, stating that her charge was \$5.00; that upon returning to the bar, the agent, in the presence of his fellow agent and Ruth, informed the defendant and the bartender of Ruth's proposition; that the other agent then remarked that the defendant had suggested that he get his car and that Ruth would take care of both agents for \$10.00. The agent then left the premises and spoke to the fellow agent who had remained outside the premises. The

other agent contacted the local police department. The agent then returned to defendant's premises and, in the presence of the defendant and the bartender, made arrangements in accordance with Ruth's suggestion that he leave first and that she would follow. The agent gave Ruth five one-dollar bills (the serial numbers of which had been previously recorded), then left, and five minutes thereafter Ruth joined him on the outside and both headed for the agent's car which was parked around the corner. As they approached the car they were intercepted by a local detective and the agent who had remained outside the premises. The couple was questioned and, in response thereto, the agent advised that they were intending to engage in illicit sexual intercourse. Ruth denied that she had received any money but at police headquarters, under threat of being searched by a police matron, Ruth produced the money which was given to her by the agent.

The privilege of selling alcoholic beverages at retail to the public, one granted to the few and denied to the many (Paul v. Gloucester, 50 N.J.L. 585), must be exercised in the public interest. The violations committed are of such a nature so as to disclose the existence of a most deplorable condition. It is apparent that this defendant has not only shown a callous disregard for both state and local regulations, but has wantonly demonstrated a shocking lack of appreciation for and understanding of fundamental decencies and proprieties in the operation of the licensed business. His active participation and acquiescence in Ruth's conduct on the licensed premises and his familiarity with the arrangements and price charged by Ruth for such indecent relations as outlined herein are ample proof to warrant the loss of his liquor license.

Defendant has a prior adjudicated record. Effective January 14, 1952 defendant's license was suspended for five days for sale of alcoholic beverages to minors. Bulletin 923, Item 8. Again, effective August 16, 1954, his license was suspended for five days for permitting a mislabeled beer tap on his licensed premises. Bulletin 1027, Item 7.

Considering all of the circumstances in this case, it is obvious that the only proper penalty is revocation of defendant's license. Re Club Hi Li, Inc., Bulletin 1198, Item 3, and cases cited therein.

Accordingly, it is, on this 29th day of April, 1959,

ORDERED that Plenary Retail Consumption License C-22, issued by the Board of Aldermen of the Town of Morristown to Frank DiRuggiero, t/a Three Star Bar & Grill, for premises 89 Speedwell Avenue, Morristown, be and the same is hereby revoked, effective immediately.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALES TO INTOXICATED PERSON - OBSCENE LANGUAGE - EMPLOYING UNQUALIFIED PERSON (NON-RESIDENT) - HOSTESSES - PRIOR RECORD - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against

THERESA GRIPPO
121 Hudson Street
Hoboken, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-94, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.

David S. Greenberg, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant entered a plea of non vult to the following charges:

"1. On Saturday night, February 28 and early Sunday morning, March 1, 1959, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person actually or apparently intoxicated and allowed, permitted and suffered the consumption of such beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.

"2. On Saturday night, February 28 and early Sunday morning, March 1, 1959, you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20.

"3. On Saturday night, February 28 and early Sunday morning, March 1, 1959 and prior thereto, you allowed, permitted and suffered the employment in and upon your licensed premises of a person not a bona fide resident of the State of New Jersey; contrary to and in violation of Rule 4 of State Regulation No. 13.

"4. On Saturday night, February 28 and early Sunday morning, March 1, 1959, you allowed, permitted and suffered a female employed on your licensed premises to accept beverages at the expense of and as a gift from customers and patrons; in violation of Rule 22 of State Regulation No. 20."

ABC agents were in defendant's licensed premises from about 11:30 p.m. on Saturday, February 28, 1959, to about 2:55 the next morning and observed an apparently intoxicated female patron fall twice to the floor from her stool at the bar. After being helped to her feet by the bartender, she staggered about the premises, returned to her seat at the bar, was served four glasses of beer and audibly used foul, filthy and indecent language. During their visit the agents also observed a female

employed as a pianist accept drinks from and at the expense of male patrons and one of the agents. The investigation further discloses that said entertainer was a non-resident who had not obtained the requisite employment permit.

Defendant's license has been suspended by the local issuing authority on three occasions, to wit: effective January 4, 1954 for twenty-five days for sales to minors; effective July 24, 1955 for five days for hostess activity, and effective March 5, 1958 for thirty days for employing a female bartender. Under all the circumstances, including the plea entered herein, I shall suspend defendant's license for sixty days

Accordingly, it is, on this 21st day of April, 1959,

ORDERED that Plenary Retail Consumption License C-94, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Theresa Grippo, for premises 121 Hudson Street, Hoboken, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 a.m. Monday, April 27, 1959, and terminating at 2:00 a.m. Friday, June 26, 1959.

WILLIAM HOWE DAVIS
Director.

6. AUTOMATIC SUSPENSION - STAYED PENDING DISPOSITION OF DISCIPLINARY PROCEEDINGS BY LOCAL ISSUING AUTHORITY.

Auto. Susp. #165)	
In the Matter of a Petition to)	
Lift the Automatic Suspension of)	
Plenary Retail Distribution License)	
D-3, issued by the Board of Commis-)	ON PETITION
sioners of the Township of Lyndhurst)	
to)	ORDER
EDWARD ZAMOYSKI and LORETTA ZAMOYSKI)	
t/a THE CORK SHOP)	
653 Ridge Road)	
Lyndhurst, N.J.)	

William L. Bivona, Esq., Attorney for Petitioners.

BY THE DIRECTOR:

The petition herein discloses that on April 21, 1959, Edward Zamoyski (one of the licensees) was fined the sum of \$50.00 and costs after he had been convicted in the Municipal Court of the Township of Lyndhurst of selling alcoholic beverages to a minor, in violation of R. S. 33:1-77. Said conviction resulted in the automatic suspension of the license held by Edward Zamoyski and Loretta Zamoyski. R. S.33:1-31.1. Because the Division was informed that the licensees intended to apply for a stay of said suspension, the license has not yet been picked up.

Disciplinary proceedings have not yet been instituted against the licensees because of the said sale of alcoholic beverages to a minor. A supplemental petition to lift the automatic suspension may be filed with me by petitioners after the disciplinary proceedings have been decided. In fairness to petitioners I conclude that at this time the effect of the automatic suspension should be temporarily stayed. Re Faessler, Bulletin 920, Item 15.

Accordingly, it is, on this 23rd day of April, 1959,

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

WILLIAM HOWE DAVIS

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

In the Matter of Disciplinary Proceedings against)

ROBT. J. CERASO)
t/a KINGS INN)
Kingston Highway 27)
South Brunswick Township)
PO Kingston, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of South Brunswick.)

Robt. J. Ceraso, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he permitted the sale, service and delivery of alcoholic beverages to two minors and the consumption of such beverages by said minors on his licensed premises, in violation of Rule 1 of State Regulation No. 20.

While two ABC agents were in defendant's premises on the evening of March 19, 1959, three soldiers in uniform entered and took seats at the bar. At about 9:40 p.m. Ann Ceraso (who is the wife of the licensee and who was then tending bar) served a glass of beer to each of the soldiers and thereafter served two more glasses of beer to each of them without questioning them as to their ages. The agents approached the soldiers as they were consuming the third drink and ascertained that one of them was of full age but that each of the other two (namely, Edward --- and William ---) was 19 years of age. At that time the licensee's wife orally admitted the violation.

Defendant has no prior record. I shall suspend defendant's license for fifteen days, the minimum penalty for a sale of alcoholic beverages to two 19-year-old minors. Re Barth, Bulletin 1236, Item 9. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 21st day of April, 1959,

ORDERED that Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of South Brunswick to Robt. J. Ceraso, t/a Kings Inn, for premises on Kingston Highway 27, South Brunswick Township, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Tuesday, April 28, 1959, and terminating at 2:00 a.m. Friday, May 8, 1959.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against A. L. F. & J. INC. t/a "RAM'S INN" Bridgeton-Millville State Road Fairfield Township PO Bridgeton, R.D. 7, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Township Committee of Fairfield Township.

William Gallner, Esq., Attorney for Defendant-licensee. Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On February 24, 1959, you allowed, permitted and suffered gambling, viz., the playing of a card game for stakes of money, in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20."

On Tuesday night, February 24, 1959, an ABC agent, acting upon information transmitted to him by an undisclosed person, contacted State troopers and proceeded with them to defendant's licensed premises wherein they observed three males playing cards (poker) at the bar for money stakes. After identifying themselves, one of the troopers seized the cards and money and arrested the players. Franklin Fisher (a shareholder of the corporate licensee), who was tending bar, admitted that he observed and permitted the game to be played.

By way of mitigation defendant, by its attorney, contends that one of the three players took a deck of cards from his pocket and began playing "show down" with the others; that the players are reputable citizens in the community and that the money on the bar represented the change from a ten-dollar bill with which the losers paid for drinks consumed during the progress of the game.

Defendant has no prior adjudicated record. Since defendant's agent did not actively participate in the gambling, I shall suspend defendant's license for the minimum period of ten days, the minimum suspension for permitting a card game for money. Re Hanna, Bulletin 1220, Item 9. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 21st day of April, 1959,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of Fairfield Township to A. L. F. & J. Inc., t/a "Ram's Inn", for premises on Bridgeton-Millville State Road, Fairfield Township, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. Monday, April 27, 1959 and terminating at 2:00 a.m. Saturday, May 2, 1959.

WILLIAM HOWE DAVIS Director.

9.

ACTIVITY REPORT FOR MAY 1959

ARRESTS:

Total number of persons arrested	-----	28
Licensees and employees	-----	11
Bootleggers	-----	17

SEIZURES:

Motor vehicles - cars	-----	6
- trailers	-----	1
Stills - 50 gallons or under	-----	4
Mash - gallons	-----	630.00
Distilled alcoholic beverages - gallons	-----	340.80
Wine - gallons	-----	43.00
Brewed malt alcoholic beverages - gallons	-----	18.81

RETAIL LICENSEES:

Premises inspected	-----	628
Premises where alcoholic beverages were gauged	-----	898
Bottles gauged	-----	16,826
Premises where violations were found	-----	51
Violations found	-----	63
Unqualified employees	-----	26
Application copy not available	-----	18
Reg. #38 sign not posted	-----	7
Other mercantile business	-----	2
Other violations	-----	10

STATE LICENSEES:

Premises inspected	-----	13
License applications investigated	-----	25

COMPLAINTS:

Complaints assigned for investigation	-----	411
Investigations completed	-----	432
Investigations pending	-----	175

LABORATORY:

Analyses made	-----	370
Refills from licensed premises - bottles	-----	45
Bottles from unlicensed premises	-----	42

IDENTIFICATION:

Criminal fingerprint identifications made	-----	21
Persons fingerprinted for non-criminal purposes	-----	252
Identification contacts made with other enforcement agencies	-----	193
Motor vehicle identifications via N. J. State Police teletype	-----	12

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	-----	12
Violations involved	-----	12
Sale during prohibited hours	-----	5
Sale to minors	-----	5
Sale on credit (local reg.)	-----	1
Sale to non-members by club	-----	1
Cases instituted at Division	-----	42
Violations involved	-----	59
Sale to minors	-----	12
Possessing liquor not truly labeled	-----	11
Sale during prohibited hours	-----	7
Hindering investigation	-----	3
Sale outside scope of license	-----	3
Permitting bookmaking on premises	-----	3
Permitting immoral activity on premises	-----	2
Sale to intoxicated persons	-----	2
Unauthorized transportation	-----	2
Sale at less than filed price	-----	2
Permitting gambling (wagering, cards)	-----	2
Permitting brawl on premises	-----	1
Sale to non-members by club	-----	1
Permitting lottery activity (numbers)	-----	1
Failure to close premises during prohibited hours	-----	1
Failure to have copy of license application on premises	-----	1
Delivery without bona fide invoice	-----	1
Failure to afford view into premises during prohibited hours	-----	1
Possessing indecent matter	-----	1
Unqualified employees	-----	1
Fraud and front	-----	1
Cases brought by municipalities on own initiative and reported to Division	-----	15
Violations involved	-----	17
Sale to minors	-----	12
Sale during prohibited hours	-----	1
Permitting gambling (cards) on premises	-----	1
Conducting business as a nuisance	-----	1
Failure to afford view into premises during prohibited hours	-----	1
Permitting bookmaking on premises	-----	1

HEARINGS HELD AT DIVISION:

Total number of hearings held	-----	57
Appeals	-----	9
Disciplinary proceedings	-----	33
Eligibility	-----	7
Seizures	-----	7
Tax revocations	-----	1

STATE LICENSES AND PERMITS ISSUED:

Total number issued	-----	15,058
Licenses	-----	5
Employment permits	-----	284
Solicitors "	-----	34
Disposal "	-----	100
Social affair permits	-----	536
Miscellaneous "	-----	426
Transit insignia	-----	12,238
Transit certificates	-----	1,435

WILLIAM HOWE DAVIS
DIRECTOR

Dated: June 3, 1959

10. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE
SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

ANNA McCANN)
291 West Market Street)
Newark 3, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-395, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Newark.)

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Klein & Klein, Esqs., by Seymour Klein, Esq., Attorneys
for Defendant-licensee.

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On March 11 and 13, 1959, you allowed, per-
mitted and suffered gambling, viz., the making and
accepting of bets in a lottery commonly known as the
'numbers game', in and upon your licensed premises;
in violation of Rule 7 of State Regulation No. 20.

"2. On March 11 and 13, 1959, you allowed, per-
mitted and suffered tickets and participation rights
in a lottery, commonly known as the 'numbers game' to
be sold and offered for sale, in and upon your licensed
premises; in violation of Rule 6 of State Regulation
No. 20."

On March 11, 1959 two ABC agents, while on defendant's
licensed premises, placed "numbers" bets with the bartender,
Patrick Joseph Rock, who turned them over to a person on the
premises, later identified as Cecil Gant. On March 13, 1959,
two ABC agents placed "numbers" bets with Cecil Gant in
defendant's premises. The local police, accompanied by other
ABC agents, entered the licensed premises and found a pack of
matches (on which was written the numbers played by the agents)
and four one-dollars bills (marked by the agents) in the pos-
session of Cecil Gant.

By way of mitigation the attorneys for the defendant
have submitted a statement setting forth therein that the
licensee was not present when the aforesaid violations took
place; that she has conducted the licensed premises since
1938, prior to which her husband (deceased) had operated the
business for about five years; that during said periods no
disciplinary proceedings were instituted against either of
them; that ever since 1933 Mr. Rock (55 years of age) has
been employed on the premises and has enjoyed a clean record
except for his arrest in the instant case. The licensee,
however, cannot escape the consequences of the aforementioned
act of her agent. Rule 33 of State Regulation No. 20; cf.
Re Suleskey, Bulletin 1253, Item 9.

Defendant has no prior adjudicated record. I shall
suspend defendant's license for twenty-five days (the minimum
suspension for gambling as herein when an employee of the

licensee is involved). Cf. Re Suleskey, supra. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 29th day of April, 1959,

ORDERED that Plenary Retail Consumption License C-395, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Anna McCann, for premises 291 West Market Street, Newark, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, May 5, 1959, and terminating at 2:00 a.m. Monday, May 25, 1959.

WILLIAM HOWE DAVIS
Director.

11. STATE LICENSES - NEW APPLICATIONS FILED.

Hoffman Import & Distributing Company
t/a Walton Liquor Import Ltd. and
Carew Morris Liquor Import Ltd.
34 Exchange Place
Jersey City, N. J.


Application filed June 3, 1959 for person-to-person transfer of Plenary Wholesale License W-10 from Philip Hoffman, t/a Hoffman Import & Distributing Company, Walton Liquor Import Ltd. and Carew Morris Liquor Import Ltd.

Park Beverages, A Corporation
15-17 Hackensack Avenue
Ridgefield Park, N. J.

Application filed June 9, 1959 for place-to-place transfer of licensed premises and warehouse on State Beverage Distributor's License SBD-173 from 165 Central Avenue, Rochelle Park, N. J.

Alexander T. Lasnick
165 Central Avenue
Rochelle Park, N. J.

Application filed June 10, 1959 for person-to-person, place-to-place transfer of State Beverage Distributor's License SBD-119 from H. B. Haring Distributing Co., Inc., 25 Dumont Avenue, Dumont, N. J.


William Howe Davis
Director.