

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

BULLETIN 1055

MARCH 31, 1955.

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OF THE STATE OF ALABAMA

1900

ANNUAL REPORT

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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 1055

MARCH 31, 1955.

1. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN  
MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD - AGGRAVATED  
CIRCUMSTANCES - LICENSE REVOKED.

In the Matter of Disciplinary )  
Proceedings against )

BUTLER OAK TAVERN, A Corporation )  
9 Oak Street )  
Butler, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-5, issued by the Borough )  
Council of the Borough of Butler. )  
----- )

McDonald & Podesta, Esqs., Attorneys for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

The defendant pleaded non vult to charges alleging that, on three separate occasions, it sold case lots of alcoholic beverages at less than the prices published in the Minimum Consumer Resale Price List, contrary to Rule 5 of State Regulations No. 30.

The first of the aforesaid sales was made during the afternoon of December 18, 1954, to one Nicholas ---, who paid Joseph Dilzer, president of the corporate licensee, the sum of \$43.50 for a case (12 fifths) of Calvert Reserve Blended Whiskey. The minimum price established in the then currently effective Minimum Consumer Resale Price List for a case of said liquor, less permissible discount, was \$51.19.

During the early evening of the same day, an ABC agent entered the defendant's premises, while another agent was stationed outside. Approaching Joseph Dilzer, the agent asked for a case of Seagram's Seven Crown Blended Whiskey, adding that "Nick sent me" (referring to the person who made the above purchase), to which Dilzer replied "Yeah, I know. He was here this afternoon." Dilzer procured the case and, pursuant to the agent's inquiry, said the price was \$43.50 (the lawful minimum therefor being \$51.19). The agent handed Dilzer the sum of \$43.50 in currency, the serial numbers of which had been previously noted by the agent. He then left the premises and, shortly thereafter, re-entered with the other agent and both identified themselves to Dilzer. Although admitting the sale to the agent, Dilzer refused to state the exact price he had charged and simply kept repeating that he had sold the case of liquor for "\$4.49 a bottle, times 12, less 5%." He also defied the agents to prove otherwise, claiming that only one agent had been present when the sale was made. When asked to produce the money paid by the agent for the liquor, Dilzer put his hand in his pocket, where he had originally placed the money, and attempted to conceal it by keeping it crumpled in his hand. At the insistence of the agents, he reluctantly opened his hand and turned the money over to them.

Still unregenerate, despite the fact that he had been caught red-handed, Joseph Dilzer made still another sale of a case of

Calvert Reserve Blended Whiskey only three days later, to wit, on December 21, 1954, for the sum of \$43.50, although the fixed price therefor was \$51.19.

If there were nothing else in this case, the mere recital of the aforesaid violations would raise serious question as to whether Joseph Dilzer who, together with his wife, owns forty-eight of the fifty shares of stock issued by the corporate licensee, is a fit person to be entrusted with the privileges of a liquor license. Cf. Re Tarlow, Bulletin 375, Item 1. The picture that unfolds depicts not only a callous but a most deliberate disregard of the salutary regulation designed to insure stability in the sale of alcoholic beverages at retail. This becomes starkly clear when the previous record is considered. In October 1940, while Dilzer held the license individually, the local issuing authority suspended his license for five days because of a curfew infraction and, in September 1943, the then Commissioner suspended his license for twenty days after he had admitted having refilled four bottles of alcoholic beverages "with other tax-paid liquor because he was out of stock of the brand of liquor designated by the particular labels." See Bulletin 585, Item 4, where it was also said that Dilzer "deliberately perpetrated a fraud upon his customers." His first minimum price violation resulted in a twenty-day suspension (with five days off for confessional plea) in February 1947. See Bulletin 750, Item 3. In July 1949 he received a twenty-five-day penalty (with five days off for confessional plea) for a second minimum price violation. See Bulletin 849, Item 8. The latter proceeding involved a sale of a case of liquor some \$7.00 below the fixed price. In May 1952, although the proceedings were dismissed because of the failure to prove the charge by a preponderance of the evidence, there was enough in the record to warrant the statement that there was "strong reason to suspect that defendant was selling case-lots at less than the listed prices." See the case of Re The Oak Tavern, Inc. (Joseph Dilzer, president), Bulletin 937, Item 10.

The practice, as here, of the indiscriminate sale of alcoholic beverages at "cut rate" prices, has no place in the liquor business and will not be tolerated. It is extremely unfair to honest licensees who thus find themselves at a distinct economic disadvantage and, if persisted in long enough, it can only lead to the disruption of the present orderly market and the evils that result therefrom. The nature and extent of the offenses in this case, reflected against Dilzer's past history, necessitate the revocation of the license herein. Such will be the order.

Accordingly, it is, on this 14th day of March, 1955,

ORDERED that Plenary Retail Consumption License C-5, issued by the Borough Council of the Borough of Butler to Butler Oak Tavern, A Corporation, for premises 9 Oak Street, Butler, be and the same is hereby revoked, effective immediately.

WILLIAM HOWE DAVIS  
Director.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE) - CONTRACEPTIVES - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 70 DAYS.

In the Matter of Disciplinary Proceedings against )

NEW TOWN TAVERN, INC. )  
T/a NEW TOWN TAVERN )  
7921 River Road )  
Pennsauken Township )  
P.O. Delair, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-30, issued by the Township Committee of the Township of Pennsauken. )

-----  
Malandra & Tomaselli, Esqs., by Joseph Tomaselli, Esq., Attorneys for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charges:

"1. On Friday night, November 5 and early Saturday morning, November 6, 1954, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises in that a female entertainer performed in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulations No. 20.

"2. On Saturday, November 6, 1954, you possessed and allowed, permitted and suffered prophylactics against venereal disease and contraceptives and contraceptive devices in and upon your licensed premises; in violation of Rule 9 of State Regulations No. 20."

At the hearing herein, two ABC agents (hereinafter referred to as Investigators "K" and "M") appeared and testified. After Investigator "K" had testified on direct and cross-examination, it was stipulated that the testimony of Investigator "M" would be the same as that of Investigator "K". This testimony may be summarized as follows:

The investigators entered defendant's licensed premises at approximately 10:00 p.m. on November 5, 1954, to investigate a specific complaint involving an allegedly lewd show. They proceeded to the bar from which they watched various entertainers performing on a stage at the other end of the dining room. There were approximately fifty patrons, male and female, seated at tables in that room.

At approximately 10:25 p.m., the master of ceremonies introduced a female entertainer whom he described as "an exotic dancer with a new twist to her dance". There appeared on the stage a female clad in a white evening dress. After strutting around the stage in time to the music of a small orchestra, she turned her back to the patrons and removed the dress, which she put aside. She then stood attired in opaque panties and "bra" with panels (approximately six inches in width) suspended from her waist both in front and in back, after which she executed a few kicks and twirls and removed the panels. Then, with her back to the patrons and her body bent over, she shook her buttocks from side to side. Meanwhile, a spotlight had been focused upon the dancer and some of the other lights dimmed. She proceeded to strut around the stage until she arrived at the side of the stage near

where a group of male patrons were seated. She then raised one leg and placed her foot on a small guard rail (three or four inches above the floor of the stage) and, with her other leg slightly bent, executed a series of "bumps" during which she moved her pelvic region back and forth forcefully to the loud beat of the drums. The spotlight was directed to her pelvic region and the "bumps" became more pronounced as the drum beats became louder. As she returned to the center of the stage the lights which had been dimmed became brighter and she stood still, moving the muscles of her stomach in a rolling motion and executed more "bumps", meanwhile rubbing with her hand the area around her vulva. Thereafter, she performed a backward somersault, "push ups" and other maneuvers, after which she strutted some more and ended with further "bumps" accompanied by a violent motion of her arm whereby she appeared to be striking her vulva with her fist each time her body reached the apex of the "bump". This part of her performance was greeted by an uproar from the patrons who loudly shouted "go, go" and "more, more".

Later the same evening the same dancer appeared and, after discarding her skirt, performed in much the same manner as hereinabove described, also in panties and "bra".

The agents identified themselves to Isadore Bushkoff, defendant's manager (and husband of Isabel Bushkoff, defendant's principal stockholder) and to defendant's floor manager, both of whom had been present when the dances were in progress. Bushkoff admitted that he had seen the dancer perform some "bumps" and said that, if she was not allowed to do it, he would tell her to stop. In his presence the dancer admitted performing some "bumps and grinds" and offered to eliminate them, explaining that her performance was mostly an "exercise dance". Bushkoff then told her not to do any more "bumps".

During the course of the investigation the agents found some rubber contraceptive devices in a small piece of hand luggage in one of the rear rooms. Bushkoff told the agents that the bag belonged to the porter who worked in the men's room but denied any knowledge of the presence of the contraceptives. When questioned, the porter admitted that the contraceptives belonged to him and that he sells them for fifty cents a package to anyone who asks for them but did not say whether he had sold any upon defendant's licensed premises. He produced more contraceptives from the men's room (apparently from the pocket of his coat which was in the men's room).

The agents admitted that Bushkoff had been cooperative during the investigation; that the dancer's breasts and privates had been covered by a "bra" and panties; that the bag containing the contraceptives was found in a storeroom and that there was no device for dispensing them on the licensed premises.

The dancer and a choreographer employed by defendant testified with respect to the dance. Both denied that it was lewd or indecent. The dancer testified that she had been dancing since childhood; that she had appeared with well-known actors and performers of national renown; that she has never performed in burlesque or "private shows"; that her dance is a combination of ballet and "jungle dance" which she has performed in many different places over the last eight years; that she performs not "bumps" but "contractions"; that part of her dance looks like "bumps" but that the steps are "vibrous" steps and that she does not touch her body with her hands. She further testified that her dance is "modern", "firy" and "exciting"; that in certain positions her body looks "sexy", but that when she had her foot on the rail she was not doing "bumps", only "contractions", and denied rotating her stomach muscles. She admitted that she removed her dress but could not recall whether she had removed the panels.

The choreographer testified that he has arranged dances for defendant's performers for twenty-one months; that he knew the dancer's work and had asked that she be employed by defendant; that she

performed a "jungle dance" with "contractions", which he defined as a body tightening and releasing which may be seen on television shows and that she does not rub her privates. He denied that the spotlight was directed at her privates. He was unable to explain the difference between "bumps" and "contractions".

In his testimony, the porter, who claimed that he receives no "pay" but works for "tips", admitted that he had the rubber contraceptives in a bag and in his coat but denied that he had advertised them or sold any of them at defendant's licensed premises. He testified that his wife packed the bag and that he did not know the contraceptives were in it until the agents discovered them. As to the dance, he testified that he saw part of it; that he did not think that the spotlight was directed to any particular part of the dancer's body and that he did not see her rub her privates.

After considering, most carefully, the entire record in this case, I am convinced that the dancer performed in the manner described by the agents and that such performance was within the proscription contained in the cited regulation. It has been held repeatedly that such performances have no place upon licensed premises and will not be tolerated. Re J. P. J. Corp., Bulletin 1052, Item 4; Re Mitchell, Bulletin 980, Item 3; Re DiAngelo, Bulletin 753, Item 4.

I find defendant guilty on Charge (1).

As to Charge (2), the entire building is licensed. Consequently the possession of contraceptives by the porter under the circumstances hereinabove related constitutes a violation of the regulation. Licensees are responsible in disciplinary proceedings for the acts of their employees. Rule 31 of State Regulations No. 20. Even though the porter was not compensated for his services except by "tips" he is nevertheless an employee of defendant, since mere utilization of his services in furtherance of the licensed business is sufficient for that purpose. Re Sevak, Bulletin 1012, Item 2; Re William Street Bar and Grill, Bulletin 466, Item 8.

I find defendant guilty on Charge (2).

The minimum suspensions for unaggravated first offenses of the kind here involved are thirty days for Charge (1) (Re DeFreitas, Bulletin 1051, Item 5) and ten days for Charge (2) (Re Meller, Bulletin 1026, Item 3; Re Zukowski, Bulletin 1014, Item 3). However, although defendant-corporation has no prior adjudicated record, its license was obtained by transfer from Isadore Bushkoff, aforementioned, the husband of defendant's president, who is the holder of 98 per cent of its corporate stock. Isadore Bushkoff continues to be employed by the licensee and, on the night the violations herein were committed, was acting as manager and represented the licensee in the discussions which took place after the agents revealed their identities. His license for these same premises was twice suspended by the State Director; for ten days, commencing April 19, 1948, for possession of illicit liquor (Re Bushkoff, Bulletin 800, Item 6) and for thirty-five days, commencing January 22, 1951, for a lewd show involving "bumps and grinds" and for permitting women at the bar contrary to local ordinance (Re Bushkoff, Bulletin 896, Item 4). As was said in Re Hrycenko, Bulletin 994, Item 9, "Where, as here, the licensee's predecessor in interest, who continues to be employed by the licensee, has a prior record of suspension, such record may be considered in arriving at the proper penalty to be imposed. Cf. Re Pioneer Tavern, Inc., Bulletin 988, Item 11. Re Cherlin, Bulletin 992, Item 4."

Since the first of these suspensions was for a dissimilar violation more than five years ago, I shall not consider it in arriving at the penalty herein. Re Nixon, Bulletin 1025, Item 4. However, the later suspension was occasioned by the same type of violation as is involved in Charge (1) herein and occurred less than five years ago. I shall suspend defendant's license for sixty days on Charge (1) and for an additional ten days on Charge (2), or a total of seventy days.

If defendant proposes to continue to provide entertainment for its patrons it will be well advised to exercise the utmost care in selecting such entertainment. Failure to heed this admonition may have most serious consequences.

Accordingly, it is, on this 17th day of March, 1955,

ORDERED that Plenary Retail Consumption License C-30, issued by the Township Committee of the Township of Pennsauken to New Town Tavern, Inc., t/a New Town Tavern, 7921 River Road, Pennsauken Township, be and the same is hereby suspended for a period of seventy (70) days, commencing at 3:00 a.m. March 28, 1955, and terminating at 3:00 a.m. June 6, 1955.

WILLIAM HOWE DAVIS  
Director.

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

In the Matter of Disciplinary Proceedings against  
ANDY'S TAVERN (A CORP.)  
T/a ANDY'S TAVERN  
7 Albany Street  
New Brunswick, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Board of Commissioners of the City of New Brunswick.

-----  
Andy's Tavern (A Corp.), by Harold Klein, President.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

The file herein discloses that, at approximately 8:00 p.m. on February 8, 1955, two soldiers, one of whom was 19 years of age, entered defendant's licensed premises where each ordered a bottle of beer. Defendant's president, who was tending bar, filled their order. After consuming their drinks the minor and his adult companion went into the rear service room where they consumed three or four more bottles of beer served by a waitress. Neither the bartender nor the waitress questioned either of them as to their ages but, at approximately 9:40 p.m., members of the military police checking the premises learned the real age of the minor soldier and took him from the premises.

In attempted mitigation defendant's president claims that the minor is big for his age and looks more than 21 years of age. However, the ABC agents who conducted the investigation report that, although the minor is tall and heavy, his face is youthful and he does not appear older than his actual age.

Defendant has a prior record. Its license was suspended by the local issuing authority for 60 days upon charges alleging: (1) hostess activity and (2) immoral activities. After an appeal to the Director had been withdrawn, the suspension, which had been stayed pending the appeal, was reimposed, effective February 14, 1952. Andy's Tavern v. New Brunswick, Bulletin 926, Item 4. In addition defendant received two warnings from this Division with respect to sales of alcoholic beverages to minors, by letters dated August 2, 1954 and January 21, 1955. The pledges of compliance, so recently given, have not been fulfilled. Under all of these circumstances I shall suspend defendant's license for twenty days. Cf. Re Molta, Bulletin 941, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 7th day of March, 1955,

ORDERED that Plenary Retail Consumption License C-3, issued by the Board of Commissioners of the City of New Brunswick to Andy's Tavern (A Corp.), t/a Andy's Tavern for premises 7 Albany Street, New Brunswick, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. March 14, 1955, and terminating at 2:00 a.m. March 29, 1955.

WILLIAM HOWE DAVIS  
Director.

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

In the Matter of Disciplinary Proceedings against )  
 )  
 JOSEPH KOLODZIEJ )  
 T/a OAK GROVE INN )  
 397-399 White Horse Pike )  
 Mullica Township )  
 P.O. Egg Harbor City, N. J., )  
 Holder of Plenary Retail Consumption License C-11, issued by the Township Committee of Mullica Township. )  
 ----- )

CONCLUSIONS  
AND ORDER

Joseph Kolodziej, Pro Se.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that ABC agents obtained a signed sworn statement from Kenneth --- (age 18) relating that on Monday night, December 13, 1954, he purchased three bottles of beer from a bartender in defendant's licensed premises without being questioned as to his age. Kenneth later accompanied the agents to defendant's tavern which he identified and, therein, pointed out the licensee as the person who served him.

Defendant has no prior adjudicated record. I shall suspend his license for ten days and remit five days for the plea entered herein, leaving a net suspension of five days. Re Carabelli, Bulletin 1039, Item 7.

Accordingly, it is, on this 3rd day of March, 1955,

ORDERED that Plenary Retail Consumption License C-11, issued by the Township Committee of Mullica Township to Joseph Kolodziej, t/a Oak Grove Inn, for premises 397-399 White Horse Pike, Mullica Township, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. March 14, 1955, and terminating at 3:00 a.m. March 19, 1955.

WILLIAM HOWE DAVIS  
Director.

5. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

PAWLOWSKI'S TAVERN, INC. )  
T/a PAWLOWSKI'S TAVERN )  
245 Monmouth Street )  
Jersey City 2, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-466, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

-----  
Pawlowski's Tavern, Inc., Defendant-licensee, by Alfred T. Pawlowski, Treas.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to a charge alleging that on Sunday, January 30, 1955, it sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that on Sunday, January 30, 1955, ABC agents visited defendant's licensed premises wherein, between 1:30 and 2:30 p.m., they observed the bartender make seven separate sales of alcoholic beverages in original containers for off-premises consumption. At 2:30 p.m. the agents purchased six cans of beer and left with the merchandise. They re-entered the premises shortly thereafter and made known their identities to the bartender, who identified himself as Theodore Pawlowski (Secretary and stockholder of defendant corporate licensee) and verbally admitted the afore-said transactions.

Defendant has no prior adjudicated record. I shall suspend its license for fifteen days. Re Bohling, Bulletin 1036, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 8th day of March, 1955,

ORDERED that Plenary Retail Consumption License C-466, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Pawlowski's Tavern, Inc., t/a Pawlowski's Tavern, for premises 245 Monmouth Street, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. March 15, 1955, and terminating at 2:00 a.m. March 25, 1955.

WILLIAM HOWE DAVIS  
Director.

## 6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary	)	
Proceedings against	)	
	)	
ECKHOFF SUPPLY CO., INC.	)	
Route S-3 and Humboldt Street	)	CONCLUSIONS
Secaucus, N. J.,	)	AND ORDER
	)	
Holder of Plenary Retail Consump-	)	
tion License C-20, issued by the	)	
Town Council of the Town of	)	
Secaucus.	)	

-----  
 Eckhoff Supply Co., Inc., by Fred G. Eckhoff, Treas.  
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
 Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold, served and delivered alcoholic beverages to two minors and permitted the consumption of such beverages by said minors in and upon its licensed premises, in violation of Rule 1 of State Regulations No. 20.

An examination of the file herein discloses that at 12:20 a.m. Sunday, February 6, 1955, ABC agents visited defendant's licensed premises and were attracted by the apparent youthfulness of a male and a female who, in separate groups, were at the bar. The agents observed the bartender serving a glass of beer to the male. They also observed the bartender serving a glass of beer to the female and a glass of beer to a male who was later ascertained to be her husband, an adult. At 1:00 a.m., after the youths had consumed some of the beer, the agents made known their identities and obtained signed statements from Henry --- (age 18), Loretta --- (age 19) and the bartender who identified himself as Treasurer and stockholder of defendant corporate licensee. It appears from Henry's statement that he had been served two or three glasses of beer and that he told the bartender he was of age, but was not required to present proof. The bartender substantiated Henry in that respect. Loretta --- stated that she had consumed some beer from a glass served to her husband.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Red Robin Cafe & Restaurant, Inc., Bulletin 1048, Item 9.

Accordingly, it is, on this 8th day of March, 1955,

ORDERED that Plenary Retail Consumption License C-20, issued by the Town Council of the Town of Secaucus to Eckhoff Supply Co., Inc., for premises at Route S-3 and Humboldt Street, Secaucus, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. March 14, 1955, and terminating at 2:00 a.m. March 19, 1955.

WILLIAM HOWE DAVIS  
 Director.

7. DISQUALIFICATION - PETTY LARCENY - UNDER CIRCUMSTANCES OF CASE NO MORAL TURPITUDE INVOLVED - ORDER LIFTING DISQUALIFICATION NOT REQUIRED.

In the Matter of an Application )  
to Remove Disqualification )  
because of a Conviction, Pursuant )  
to R. S. 33:1-31.2. )  
Case No. 1205. )  
-----)

CONCLUSIONS

BY THE DIRECTOR:

Applicant's fingerprint returns show that in 1937, 1939 and 1943 he was found guilty of petty larceny and placed on probation for one, two and three years respectively, and, with respect to the third offense, he was ordered to pay 25¢ per week. In 1948 he was found guilty of malicious mischief and paid a fine of \$30.00. Since the aforesaid crimes do not per se involve the element of moral turpitude, a hearing was held to ascertain the facts underlying the convictions.

At the hearing applicant testified that he is thirty-four years of age and married; that in 1937 he was arrested for failing to return on time a hired bicycle; that in 1939 he and a friend entered the home of a young man who was away and took an article borrowed from and belonging to the friend; that in 1943, while employed at an Army base, he siphoned a gallon of gasoline from an airplane to fuel his own car; and that in 1948 he was apprehended with two companions who had engaged in a brawl. Applicant further testified that he has not been convicted of any crime since 1948 and has had no difficulty with the law. The Police Department of the city wherein applicant resides reports no complaints or investigations presently pending against him.

Having considered applicant's record and his testimony herein, I am satisfied that none of the aforesaid crimes involves the element of moral turpitude. Cf. Re Case No. 213, Bulletin 232, Item 6. Hence it is unnecessary to enter an order in this proceeding. Under the circumstances, applicant is eligible to be associated with the alcoholic beverage industry, despite the convictions hereinabove disclosed; provided, however, that he is otherwise fully qualified.

WILLIAM HOWE DAVIS  
Director.

Dated: March 8, 1955.

8. STATE BEVERAGE DISTRIBUTOR'S LICENSE - OBJECTIONS TO TRANSFER OF LICENSE HELD TO BE WITHOUT MERIT.

In the Matter of Objections to )  
the Transfer of a State Beverage )  
Distributor's License held by )

EDWARD F. CICCARONE )  
T/a ED CHICCO, Importer, )

CONCLUSIONS

from 1429 Absecon Boulevard, )  
Atlantic City to S/W Corner Ohio )  
Avenue and Absecon Boulevard, )  
Atlantic City, N. J. )

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Leo J. Berg, Esq., Attorney for Applicant.  
Louis L. Satinover, Esq., President, North Side Beverage  
Dealers' Association, Objector.  
Albert Pell, President, Atlantic-Cape May County Liquor Stores  
Association, Objector.

BY THE DIRECTOR:

Written objections were filed on behalf of North Side Beverage Dealers' Association, Atlantic-Cape May County Liquor Stores Association and others alleging, in substance, that applicant intended to conduct a "cut-rate" retail beer store, that the area to which applicant seeks to transfer is adequately served by present retail outlets, that the proposed new premises are in an "A" residential zone and that the conduct of applicant's business at such proposed premises would be in violation of the zoning ordinance of the City of Atlantic City. Although the Board of Commissioners of the City of Atlantic City was notified that this application for transfer was pending and was afforded an opportunity to apprise the Director of its sentiment in the matter or of any provisions of local ordinances or regulations affecting the application, the Board of Commissioners did not enter an appearance and no communication has been received from it.

At the hearing on these objections, the applicant testified that he has held a State Beverage Distributor's License since 1947; that the proposed new premises are approximately 3-1/2 blocks from his present premises; that both are located on Absecon Boulevard but on opposite sides thereof; that he proposes to conduct at the proposed new premises the same type of business as he is now conducting at his present premises and that the nearest tavern is at the corner of South Carolina Avenue and Adriatic Avenue. It is evident from a map introduced in evidence that the proposed new premises are further west on Absecon Boulevard from applicant's present premises and thus are further removed from the center of Atlantic City.

Only two other persons testified at the hearing on these objections, namely, the Presidents of the Associations hereinabove mentioned. Their testimony may be summarized as follows: the members of the associations object to the granting of the proposed transfer because they believe that the area is adequately served by existing retail licensees; they are trying to preserve a "healthy" condition in the liquor industry in Atlantic City; they believe that State Beverage Distributors should not sell to retail customers; that applicant had agreed to sell to wholesale customers only and not to retail customers but had failed to keep that agreement and that they believe that applicant intends to open an

Atlantic City sales room for the purpose of selling beer directly to the consumers, in direct competition to retail licensees. One of these witnesses admitted that he had no evidence of any violations of law by the applicant. He also expressed concern over traffic conditions at the proposed new premises and testified that he expected numerous pedestrians to purchase half-cases of beer at the proposed new premises.

The privileges of a State Beverage Distributor's License are state-wide and, thus, the question of public necessity and convenience cannot be determined on the narrow basis of the single municipality in which the prospective licensee will conduct his business or a particular section of that municipality. This was clearly set forth in the recent decision denying this applicant's application for transfer of this same license to 3506 Atlantic Avenue, one of the main streets of Atlantic City. Re Ciccarone, Bulletin 1048, Item 5. It was also pointed out in that case that the transfer of a license, whether state or municipal, to another premises is not a privilege inherent in a license and, if a good cause appears, an application for transfer may be denied in the discretion of the issuing authority, citing, Variety Beers and Soda Distributors, Inc., Bulletin 1000, Item 6 and Re Warren, Bulletin 945, Item 6.

The situation in the instant case is very different from that which existed in the earlier case in which the transfer to 3506 Atlantic Avenue was denied. In the former case applicant was seeking to move from the outskirts of the city to a built-up part of the city and the objectors, including the Board of Commissioners, strongly urged that the transfer would result in a serious traffic hazard. In addition the governing body (Board of Commissioners) filed written objections to the transfer. In the instant case applicant is seeking to transfer but a short distance from his present premises to another location on the same highway further removed from the center of the city. While some of the written objections received by this Division raised some question with respect to the local zoning ordinance no evidence on this subject was presented at the hearing herein and the Board of Commissioners has remained silent. There is no evidence upon which I can find that the proposed transfer would violate the local zoning ordinance or any other local regulation. The remaining objections of the objectors appear to be either conjectural or induced by fear of additional competition. In view of all the facts and circumstances disclosed by the record in this case and particularly in view of the geographical situation involved, I find these objections to be without merit.

The application for transfer will be granted if and when said application is in proper form.

WILLIAM HOWE DAVIS  
Director.

Dated: February 23, 1955.

9. STATE BEVERAGE DISTRIBUTOR'S LICENSE - OBJECTIONS TO TRANSFER HELD TO BE MERITORIOUS - APPLICATION FOR TRANSFER DENIED.

In the Matter of Objections to an )  
 Application for Transfer of State )  
 Beverage Distributor's License SBD-110 )  
 from ALBERT J. BAKUNAS, t/a A. J. )  
 BAKUNAS BEVERAGES, 316 Third Street, )  
 Cliffside Park, New Jersey, to )  
 )  
 ANTHONY F. BRUNO )  
 384 Franklin Avenue )  
 Belleville, N. J. )

CONCLUSIONS

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 Leo J. Berg, Esq., Attorney for Applicant.  
 Keenan & Finch, Esqs., by Muriel Finch, Esq., Attorneys for Town of  
 Belleville, Objector.  
 Philip Lindeman II, Esq., Attorney for Objector-Licensees.

BY THE DIRECTOR:

Written objections were filed on behalf of five retail liquor licensees who have their liquor establishments in the Town of Belleville alleging that the area to which applicant seeks to transfer is adequately served by the present retail outlets. The Board of Commissioners of the Town of Belleville also opposed the transfer of the license in question.

At the hearing on these objections, the applicant testified that he now operates a soft drink business from a depot located at 384 Franklin Avenue, Belleville; that customers have requested him to carry unchilled malt beverages; that, if he obtains the transfer applied for, he proposes to purchase a truck and establish routes for the sale of his merchandise; and that he intends to serve the customers now served by the present holder of the state beverage distributor's license (Albert J. Bakunas, t/a A. J. Bakunas Beverages, 316 Third Street, Cliffside Park, N. J.).

Six objectors, four of whom are holders of plenary retail distribution licenses and two of whom are holders of plenary retail consumption licenses, testified that they are opposed to the transfer of the license in question. The four who conduct "package goods" establishments testified that they have delivery services and that they deliver mostly cases of beer to their customers. The two licensees who conduct taverns testified that they do not presently make deliveries to customers but one of them testified that he intends to establish a delivery service.

An attorney appeared for the Town of Belleville at the within hearing. Although no witnesses were called by the municipality, the attorney represented that the municipal governing board was of the opinion that there are at present enough liquor outlets in the Town to serve the needs of the people residing therein. There are forty-three plenary retail consumption licenses and eleven plenary retail distribution licenses issued and outstanding in the Town of Belleville. The latter has a population of 32,019, according to the 1950 Federal Census.

In considering the aforesaid objection, it must be borne in mind that municipal consent is not a statutory prerequisite to the issuance of a State license; that the privileges of a state beverage distributor's license are state-wide and, thus, that the question of public necessity and convenience cannot be determined on the narrow basis of the single municipality in which the prospective licensee will have his principal office or warehouse. Re Vigor Beverages Co., Inc., Bulletin 941, Item 9. Nevertheless, the transfer of a license,

whether State or municipal, to other premises is not a privilege inherent in a license. Re Variety Beers and Soda Distributors, Inc., Bulletin 1000, Item 6; Van Schoick v. Howell, Bulletin 120, Item 6. If good cause appears, an application for transfer may be denied in the discretion of the issuing authority. Re Variety Beers and Soda Distributors, Inc., supra; Re Warren, Bulletin 945, Item 6; Re Ciccarone, Bulletin 1048, Item 5.

Applicant seeks to transfer the license from a location, a distance of 14 miles, to a municipality which, in the opinion of the local issuing authority, is well supplied at the present time with liquor outlets. Furthermore, I am satisfied that public convenience and necessity do not require the transfer of the license herein which, in effect, is the establishment of what is essentially a new liquor business in the Town of Belleville.

For the reasons aforesaid, the application for transfer of the license in question will be denied.

WILLIAM HOWE DAVIS  
Director.

Dated: February 28, 1955.

10. LIMITED WHOLESALE LICENSE - OBJECTION TO ISSUANCE HELD TO BE MERITORIOUS - APPLICATION FOR ISSUANCE DENIED.

In the Matter of Objections to )  
the Issuance of a Limited Wholesale )  
License to )

JAMES E. CAMBRIA and )  
PASQUALE A. ALBANESE )  
T/a HEDRICK DISTRIBUTING COMPANY )

CONCLUSIONS

For Premises located at 11 Gypsum )  
Street, Kearny, N. J. )

-----)  
Bruck and Bigel, Esqs., by Joseph Bigel, Esq., Attorneys for )  
Applicants.

Leo J. Berg, Esq., Attorney for State Beverage Distributors' )  
Association, Objector.

BY THE DIRECTOR:

An application was filed by James E. Cambria and Pasquale A. Albanese for a Limited Wholesale License. This license entitles the licensee, among other things, to sell and distribute brewed malt alcoholic beverages to retailers and wholesalers licensed in this State and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse and salesroom. R.S. 33:1-11.

It appears from the evidence herein that the applicants were selected by an out-of-state brewery to be the exclusive distributor of its beer in New Jersey. The applicants testified that they made a survey with reference to the sale of the brand of beer in question, which disclosed that there were some prospective customers for the brand of beer they contemplated handling. Both applicants testified that they had no experience in the operation of the type of beer business in which they planned to engage.

Two objectors to the issuance of the Limited Wholesale License appeared on behalf of their respective corporations which hold Limited Wholesale Licenses. These objectors testified that, in their opinion, there is no need or necessity for the issuance of another Limited Wholesale License in this State. It was stipulated by the attorney representing the applicants and by the attorney representing the objectors that, if three other objectors who were

present at the hearing and who held State Beverage Distributors' Licenses were called upon to testify, their testimony would corroborate that given by the two objectors aforementioned.

I have carefully examined the evidence presented by the applicants and it is apparent therefrom that no need or necessity exists in this instance for the issuance of the Limited Wholesale License. The applicants, according to their testimony, have only a vague idea about the particular business in which they desire to engage and are uncertain about the fundamental requirements in order to operate such a business in a successful manner. James E. Cambria, one of the applicants, in answer to a question whether he could profitably operate a business of the kind in question, testified, "Well, I have been engaged in the selling business the last 25 or 30 years, and having had some contact in other fields with being distributors, with just an offhand knowledge of it and putting it strictly on the basis of merchandising, I felt there was good possibility." Moreover, neither applicant had accurate knowledge with reference to the wholesale or retail prices of the beer to be handled.

Under the circumstances appearing in this case I shall deny the application made by the applicants herein for a Limited Wholesale License.

WILLIAM HOWE DAVIS  
Director.

Dated: March 8, 1955.

- 11. DISCIPLINARY PROCEEDINGS - LEWD AND IMMORAL ACTIVITIES (INDECENT PRINTED MATTER - INDECENT PICTURES) - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )  
FRANK MARQUEZ )  
T/a IDLE HOUR )  
Lincoln Boulevard at Kopp St. )  
Lincoln Park, N. J., )  
Holder of Plenary Retail Consumption License C-3, issued by the Mayor and Council of the Borough of Lincoln Park. )

CONCLUSIONS AND ORDER

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

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On February 3, 1955 and prior thereto, you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing obscene, indecent, filthy, lewd, lascivious and disgusting printing, writing, pictures and representations; in violation of Rule 17 of State Regulations No. 20."

The file herein discloses that on February 3, 1955, an ABC agent, while making a retail inspection of defendant's licensed

premises, observed indecent and suggestive articles and signs hanging from the ceiling and on the walls therein. The agent seized the obscene items and obtained a signed sworn statement from the licensee relating that the articles and signs had been exhibited on the licensed premises for "at least a couple of years" and that they were brought in by customers and put up "Just for fun, a few laughs \*\*\*."

Defendant has a prior adjudicated record. Effective May 23, 1949, his license was suspended for ten days by the local issuing authority for sales to minors. However, since the prior dissimilar violation occurred more than five years ago, it will not be considered in fixing the penalty herein. Re Dwyer, Bulletin 1036, Item 3. I shall suspend defendant's license for ten days. Re Ferraro, Bulletin 790, Item 14. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 8th day of March, 1955,

ORDERED that Plenary Retail Consumption License C-3, issued by the Mayor and Council of the Borough of Lincoln Park to Frank Marquez, t/a Idle Hour, for premises on Lincoln Boulevard at Kopp Street, Lincoln Park, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. March 14, 1955, and terminating at 2:00 a.m. March 19, 1955.

WILLIAM HOWE DAVIS  
Director.

12. STATE LICENSES - NEW APPLICATIONS FILED.

John Novak Jr. and Joseph Novak  
T/a Novak's Beverages Dist. Co.  
54 Ray Street  
New Brunswick, N. J.


Application filed March 25, 1955 for transfer of State Beverage Distributor's License SBD-214 from Theodore Meth, Receiver for Perfection Distributors, Inc., 23 Downing Street, Newark, N. J.

Chicago Express, Inc.  
Easton Turnpike & Chimney Rock Road  
Bridgewater Township, P. O. Finderne, N. J.

Application filed March 25, 1955 for additional warehouse at 2700 Brunswick Pike, Trenton, N. J.

Lawrence Warehouse Company  
1313 Baltic Ave., Atlantic City, N. J.

Application filed March 29, 1955 for Public Warehouse License.



William Howe Davis  
Director.