

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

BULLETIN 897

FEBRUARY 13, 1951.

TABLE OF CONTENTS

ITEM

1. ACTIVITY REPORT FOR JANUARY 1951.
2. APPELLATE DECISIONS - KOWALICK ET AL. v. INDEPENDENCE TOWNSHIP AND KLIMAS.
3. APPELLATE DECISIONS - MINSKY v. WOODBRIDGE TOWNSHIP.
4. DISCIPLINARY PROCEEDINGS (Atlantic Highlands) - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - FAILING TO NOTIFY LOCAL ISSUING AUTHORITY OF CHANGE OF FACTS, IN VIOLATION OF R. S. 33:1-34 - PRIOR RECORD - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO APPLY TO LIFT SUSPENSION AFTER THE EXPIRATION OF 25 DAYS IF SITUATION CORRECTED.
5. DISCIPLINARY PROCEEDINGS (Asbury Park) - ILLICIT LIQUOR - PRIOR RECORD OF CORPORATE LICENSEE IN WHICH DEFENDANT WAS PRINCIPAL STOCKHOLDER - PRIOR RECORD OF DEFENDANT - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Ridgefield Park) - CLUB LICENSEE - SALES TO NON-MEMBERS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Trenton) - CLUB LICENSEE - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL REGULATION - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Paterson) - SALE OF ALCOHOLIC BEVERAGES AND FAILURE TO CLOSE PREMISES DURING HOURS SALES PROHIBITED BY LOCAL REGULATION - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (East Rutherford) - BOOKMAKING AND GAMBLING - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Newark) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
11. DISCIPLINARY PROCEEDINGS (Linden) - SALE TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
12. DISCIPLINARY PROCEEDINGS (Newark) - ILLICIT LIQUOR - PRIOR RECORD NOT CONSIDERED UNDER CIRCUMSTANCES OF CASE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
13. FAIR TRADE - NOTICE OF COMPLETE PUBLICATION.
14. STATE LICENSES - NEW APPLICATIONS FILED.

STATE OF NEW JERSEY
 Department of Law and Public Safety
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ACTIVITY REPORT FOR JANUARY 1951

I.		
ARRESTS:		
Total number of persons arrested	-----	22
Licensees and employees	----- 6	
Bootleggers	----- 16	
SEIZURES:		
Motor Vehicles - cars	-----	2
Stills - over 50 gallons	-----	2
Alcohol - gallons	-----	53.75
Mash - gallons	-----	7,950.00
Distilled alcoholic beverages - gallons	-----	1.93
Wine - gallons	-----	7.53
Brewed malt alcoholic beverages - gallons	-----	15.81
RETAIL LICENSEES:		
Premises inspected	-----	1,221
Premises where alcoholic beverages were gauged	-----	775
Bottles gauged	-----	13,431
Premises where violations were found	-----	124
Violations found	-----	144
Type of violations found:		
Unqualified employees	----- 33	Other mercantile business ----- 3
Prohibited signs	----- 14	Disposal permit necessary ----- 1
Reg. #38 sign not posted	----- 9	Other violations ----- 84
STATE LICENSEES:		
Premises inspected	-----	17
License applications investigated	-----	14
COMPLAINTS:		
Complaints assigned for investigation	-----	497
Investigations completed	-----	436
Investigations pending	-----	142
LABORATORY:		
Analyses made	-----	130
"Shake-up" cases (alcohol, water and artificial color) - bottles	-----	8
Liquor found to be not genuine as labeled - bottles	-----	6
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made	-----	23
Persons fingerprinted for non-criminal purposes	-----	187
Identification contacts made with other enforcement agencies	-----	173
Motor vehicle identifications via N. J. State Police Teletype	-----	22
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	22
Sale during prohibited hours	----- 13	Permitting hostesses ----- 1
Failure to afford view into premises	-----	Sale to non-members by clubs ----- 1
during prohibited hours	----- 2	Permitting women at bar ----- 1
Possessing contraceptives	----- 2	Permitting brawls ----- 1
Sale to minors	----- 2	Sale by retailer on credit ----- 1
Permitting bookmaking	----- 2	
Cases instituted at Division	-----	21*
Violations involved:		
Permitting bookmaking	----- 4	Sale to intoxicated persons ----- 2
Sale to minors	----- 4	Licensee working while drunk ----- 1
Possessing illicit liquor	----- 3	Fraud and front ----- 1
Sale under Fair Trade price	----- 2	Permitting pin ball machines ----- 1
Permitting immoral activity	----- 2	Permitting gambling (betting) ----- 1
Sale during prohibited hours	----- 2	Hindering investigation ----- 1
Sale to non-members by clubs	----- 2	Employing unqualified persons ----- 1
Permitting lottery activity	----- 2	Permitting act of violence ----- 1
*One includes cancellation proceedings (licensee not a bona fide club at the time license application was made)		
Cases brought by municipalities on own initiative and reported to Division	-----	20
Violations involved:		
Sale during prohibited hours	----- 7	Permitting lottery activity ----- 1
Sale to minors	----- 5	Permitting persons of ill repute ----- 1
Permitting bookmaking	----- 2	Furthering illegal activity ----- 1
Permitting brawls	----- 2	Permitting immoral activity ----- 1
Sale on Election day	----- 2	Conducting business as a nuisance ----- 1
Serving women at bar	----- 1	Hindering investigation ----- 1
Permitting females to tend bar	----- 1	Permitting act of violence ----- 1
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	47
Appeals	----- 11	Seizures ----- 6
Disciplinary proceedings	----- 26	Tax revocation ----- 1
Eligibility	----- 2	Applications for license ----- 1
PERMITS ISSUED:		
Total number of permits issued	-----	794
Employment	----- 153	Social affairs ----- 293
Solicitors	----- 104	Special wine ----- 26
Disposal of alcoholic beverages	----- 133	Miscellaneous ----- 85

2. APPELLATE DECISIONS - KOWALICK ET AL. v. INDEPENDENCE TOWNSHIP AND KLIMAS.

ALEX. KOWALICK, VICTOR KLIMAS)
and WILLIAM B. JOHNSON,)
Appellants,)

-vs-

ON APPEAL
CONCLUSIONS AND ORDER

TOWNSHIP COMMITTEE OF THE TOWNSHIP)
OF INDEPENDENCE, and JOHN VICTOR)
KLIMAS, t/a GREAT MEADOWS HOTEL,)
Respondents.)

Saul N. Schechter, Francis L. Thompson and Archie Roth, Esqs.,
Attorneys for Appellants.
Wilbur M. Rush, Esq., Attorney for Respondent Township Committee.
Edward E. Stover, Esq., Attorney for Respondent John Victor Klimas.

BY THE DIRECTOR:

This is an appeal from the action of respondent Township Committee in granting a conditional transfer of the plenary retail consumption license held by respondent John Victor Klimas from premises on State Highway No. 6 known as Great Meadows Hotel to premises on State Highway No. 6 known as Tavern Rest Hotel.

Among the reasons advanced for reversal of the action of the respondent Township Committee are the following:

- "(c) its action was in violation of a local ordinance,
- (d) its action was in violation of the State Limitation Law, c. 94, L. 1947,
- (e) new premises are not a hotel,
- (f) plans for remodeling are indefinite and vague,
- (g) old premises more suitable, and
- (h) license originally issued on an understanding that it would not be transferred."

The license in question was originally issued to respondent John Victor Klimas in January 1946 after the local limitation ordinance had been amended to read as follows:

"The number of Plenary Retail Consumption Licenses outstanding in the Township of Independence at the same time shall not exceed three; provided, however, that this shall not prevent the renewal of such licenses outstanding upon the adoption of this ordinance or the transfer of such licenses and the renewal of licenses so transferred. Nothing herein contained shall prevent the issuance of Plenary Retail Consumption Licenses in excess of the above quota to one bona-fide Hotel. Hotel premises for which plenary retail consumption licenses are issued pursuant to this exception, shall continue to operate as a bona fide hotel, and for failure to do so, the license will be subject to revocation."

Since there were more than three plenary retail consumption licenses then outstanding, the respondent Township Committee apparently concluded that the building known as Great Meadows Hotel was in fact a hotel and entitled to a license under the amended ordinance.

Respondent John Victor Klimas obtained a license for "Barroom and Dining Room and cellar" in the Great Meadows Hotel. These rooms constitute the licensed premises. Victor Klimas and his wife Helen Klimas operate the room-renting business of the hotel independently of

the respondent John Victor Klimas, and presently there would appear to be about five rooms used by permanent guests and four rooms available to the public use for hotel purposes.

Tension building up for some time between Helen Klimas and respondent John Victor Klimas apparently reached a climax shortly after the current license was secured. Respondent sought other premises and applied for transfer of his license to premises, known as Tavern Rest Hotel, which are located on the same highway as, and about one-half mile from, the Great Meadows Hotel. His application for transfer was granted on August 7, 1950, by the following resolution:

"Be It Resolved, that the Plenary Retail Consumption License No. C-7 now held by John Victor Klimas, for premises known as Great Meadows Hotel, and located on Main Street, Gt. Meadows, N. J., be transferred to John Victor Klimas for premises known as Tavern Rest Hotel, located on State Highway, Route 6, R. D. Hackettstown, N. J., upon condition that he comply with the plans and specifications submitted with the application for a transfer, and

"Be It Resolved, that the Tavern Rest Hotel shall continue to operate as a hotel, and for failure to do so, the license will be subject to revocation.

"Be It further Resolved that the transfer shall not be made until compliance as above set forth."

There is nothing in the local ordinance, as amended, which would prevent the transfer of the license to other premises operated as a hotel. There is nothing in Ch. 94, P. L. 1947, which would prevent the transfer of a license which was in existence when the law became effective on May 15, 1947. See Section 4 thereof. I conclude that reasons designated (c) and (d) are without merit.

The premises to which the transfer was granted consist of a large two-story building. Originally it contained three sleeping rooms on the second floor. It was known at one time as the "Commercial Inn" and later as "Veterans Rest", but it is doubtful if it was ever operated as a hotel. Plenary Retail Consumption licenses had been granted for many years to various individuals for said premises until June 30, 1941. See Meisler v. Independence, Bulletin 520, Item 6. Apparently the building has been vacant since June 30, 1941, or shortly thereafter.

When respondent John Victor Klimas filed his application for transfer, he also filed "Plans of Tavern Rest" from which it appears that he intends to establish a dining-room, kitchen, barroom and personal living quarters on the first floor, and seven sleeping rooms and bath on the second floor. At the hearing he testified as follows:

"Q Mr. Klimas, you are familiar with the fact that your license has the condition you operate as a bona fide hotel, is that correct?

A That's correct.

Q If this license is granted to the Tavern Rest Hotel, you must run this as a bona fide hotel?

A That's right.

Q If you do not, your license will then be revoked?

A That's right."

The plans filed with the application are not indefinite or vague. I conclude that they are sufficient to comply with the Rules and Regulations, particularly since all changes would appear to be internal changes and no substantial structural changes are involved. If the changes are made, they should be sufficient to permit the operation of a bona fide hotel. In Anthony v. Branchville, Bulletin 80, Item 9, it is said:

"***what constitutes a hotel is mainly a question of fact. I know of no air-tight, universal definition. What might fairly be considered a hotel in Branchville with a population of 665 would naturally be something entirely different from the concept of a hotel in Newark with a population of 450,000, or in a resort such as Atlantic City, which, irrespective of population, has natural advantages which attract several thousands to every one who seeks accommodations over night in Branchville."

Any hotel in this section of the State must, almost of necessity, cater to transient trade on State Highway No. 6. I find that reasons (e) and (f) are without merit.

The facts do not support the contention that the old premises, which are at least fifty years old, are more suitable than the new premises would be if the required changes are made. Moreover, there is nothing in the local ordinance, as amended, which would restrict the license to the Great Meadows Hotel. No place is entitled to a license more than another. Re Konesky, Bulletin 217, Item 7; Cielukowski v. Jersey City, Bulletin 716, Item 6. Hence, reasons (g) and (h) are also without merit.

Appellants allege also that no public necessity for the transfer existed, and that the transfer was contrary to public interest and welfare. The members of the Township Committee, in the exercise of their discretion, decided to grant the transfer. Under the circumstances of this case, I am unable to conclude that they abused their discretion or acted in an unreasonable manner in granting the transfer of the license subject to the condition imposed.

The action of respondent Township Committee will be affirmed.

Accordingly, it is, on this 25th day of January, 1951,

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

ERWIN B. HOCK
Director.

3. APPELLATE DECISIONS - MINSKY v. WOODBRIDGE TOWNSHIP.

MAX MINSKY, trading as MAC'S)
 LIQUOR STORE,)
)
 Appellant,)
)
 -vs-)
)
 TOWNSHIP COMMITTEE OF THE)
 TOWNSHIP OF WOODBRIDGE,)
)
 Respondent.)

ON APPEAL
 CONCLUSIONS AND ORDER

Kasen, Schnitzer & Kasen, Esqs., by Daniel G. Kasen, Esq.,
 Attorneys for Appellant.
 Henry St. C. Lavin, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the denial of an application to transfer appellant's plenary retail distribution license from premises 248-250 Amboy Avenue to premises 94 Main Street, Woodbridge.

The application under consideration was denied at a meeting of respondent Township Committee on August 8, 1950, when the five members of the Township Committee present voted unanimously against the transfer of said license.

A prior appeal involving the parties hereto and relating to the same subject matter was dismissed without prejudice on July 12, 1950, because the evidence presented by the appellant at that time failed to disclose that appellant had requisite possession of the proposed premises. Minsky v. Woodbridge, Bulletin 882, Item 4.

At the hearing held herein, appellant testified that he entered into a written lease with the owner for part of the premises located at 94 Main Street, which lease provided, among other things, for possession of the premises on November 1, 1950. Although appellant did not offer the said written lease in evidence in the instant case, there appears to be no dispute on the part of respondent that such a lease exists. Consequently the matter in issue herein will be determined on its merits.

Appellant described various changes in the character of the neighborhood where his licensed premises are now located. Appellant testified that, although some new houses have been built in that area, some houses were demolished and others were moved in order to permit the construction of a new highway. Appellant further testified in detail concerning Main Street, on which the proposed premises are situated, naming virtually all the types of business establishments on said street from the railroad crossing on the east to Amboy Avenue on the west. Among the business establishments named were two plenary retail distribution licensees with premises at 79 and 82 Main Street, respectively, and a plenary retail consumption licensee with premises at 78 Main Street. Appellant contends that the people of the township do their shopping on Main Street, and that another package store in that vicinity would serve the public interest.

Township Committeeman John Bergen testified that he voted against the transfer of appellant's license because in his opinion there are too many taverns and liquor stores in the area of Main Street, and that in his opinion there should be a liquor store in the section where appellant's license is now located. Township Committeeman William Fitzpatrick testified that there are only six package

goods stores in the entire township consisting of twenty-six square miles, and that the transfer sought by appellant would result in putting three of those package goods stores within a distance of 500 feet. He said, "Where this store is located now it is about four city blocks from Main Street and there are quite a few people who live down that area. The area is growing and I thought those people needed the service." Committeeman Fitzpatrick further said, "The tendency now is to thin out where it is not too bad; much worse before. We don't want it to reoccur where Main Street is cluttered with taverns and liquor stores." Committeeman Fitzpatrick also said that he voted against appellant's present application, as he did against the application previously filed by appellant, because he "saw no new evidence; nothing to change my mind".

Hamilton Billings, Assistant Building Inspector, testified that in the immediate vicinity of appellant's present licensed premises, up to July 15, 1950, 194 new dwellings were constructed and occupied during the period 1944-1950, and seven new dwellings and one four-family apartment house are under construction. Mr. Billings further testified that nine dwellings were demolished and ten dwelling houses were moved in that territory.

Main Street from Amboy Avenue to Pearl Street (a distance of two city blocks) has a total of three plenary retail consumption licenses and two plenary retail distribution licenses. One plenary retail distribution license is on the same side of the street as the proposed site at a distance of approximately 200 feet, and another is across the street at a little greater distance.

The distance from the proposed site for the licensed premises is approximately 2200 feet from appellant's present location.

The transfer of a liquor license is not a right inherent in the license but is, rather, a privilege which the issuing authority may grant or deny in the exercise of a reasonable discretion. When the transfer is denied on reasonable grounds, such action will be affirmed. Drucker v. Trenton, Bulletin 474, Item 9.

The question whether a license should be transferred to a particular location is a matter confided to the sound discretion of the issuing authority. The burden of showing that the issuing authority abused its discretion rests with appellant. Segal et al. v. Clifton et al., Bulletin 732, Item 5.

The members of the Township Committee present at the meeting on August 8, 1950, were of the opinion that the best interests of the general public would be served by denying the application to transfer the license. Although the premises to which transfer of the license is sought are located in the main business section of Woodbridge, the appellant has not established that there are not sufficient package goods stores and taverns in that area to adequately supply any demand for alcoholic beverages from the people who may live in that particular area as well as those who may do their shopping there.

After consideration of all the evidence in the instant case, I cannot say that the action of the members of the respondent issuing authority in denying the application for transfer was so arbitrary and unreasonable as to constitute an abuse of discretion warranting a reversal of their action.

The action of the respondent in denying the application for transfer is hereby affirmed.

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

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

ERWIN B. HOCK
Director

4. DISCIPLINARY PROCEEDINGS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - FAILING TO NOTIFY LOCAL ISSUING AUTHORITY OF CHANGE OF FACTS, IN VIOLATION OF R. S. 33:1-34 - PRIOR RECORD - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO APPLY TO LIFT SUSPENSION AFTER THE EXPIRATION OF 25 DAYS IF SITUATION CORRECTED.

In the Matter of Disciplinary Proceedings against)

PIER HOTEL, INC.)
 T/a PIER HOTEL)
 40-38 First Avenue)
 Atlantic Highlands, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption License C-12, issued by the Borough Council of the Borough of Atlantic Highlands.)

Roberts, Pillsbury, Carton & Sorenson, Esqs., by Lawrence A. Carton, Jr., Esq., Attorneys for Defendant-licensee.
 William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that it (1) failed to file proper notice, as required by the provisions of R. S. 33:1-34, of changes in its operation whereby, on or about August 8, 1950, one Stephen Bodolo secured a beneficial interest in defendant's plenary retail consumption license, retaining all the profits from the licensed business, for a fixed monthly fee; and (2) knowingly aided and abetted the said Stephen Bodolo to exercise the rights and privileges of its license, in violation of R. S. 33:1-52.

On or about August 8, 1950, defendant, then holding Plenary Retail Consumption License C-12 issued to it by the local issuing authority, leased the liquor business conducted under the said license to Stephen Bodolo. This leasing of the licensed business effectively "farmed out" the license and actually constituted the licensee-defendant an extra-legal issuing authority. Re Elmwood House (Corp.), Bulletin 877, Item 3.

Such action is a serious violation of the liquor laws and, in effect, circumvents the control of the license by legally constituted authority. Re Stetz, Bulletin 512, Item 3; Re Beringer, Bulletin 571, Item 10.

No notice as required by R. S. 33:1-34 was filed. The illegal operation of the licensed business still continues. Such operation cannot be permitted to continue. I shall suspend the license for the balance of its term.

Defendant has a prior adjudicated record. Effective November 15, 1950, its license was suspended by the Director for five days on a charge of having a mislabeled beer tap on its licensed premises. The minimum suspension usually imposed in "front" cases is twenty days. Re Russo, Bulletin 741, Item 4. However, I must consider the prior record as disclosed herein.

If the present illegal situation is corrected, defendant, or its successor in interest in the license, may by proper petition filed with me seek the restoration of the license privileges. No relief will be afforded prior to the expiration of at least twenty-five days from the date upon which this suspension becomes effective.

Accordingly, it is, on this 24th day of January, 1951,

ORDERED that Plenary Retail Consumption License C-12, issued by the Borough Council of the Borough of Atlantic Highlands to Pier Hotel, Inc., t/a Pier Hotel, for premises 40-38 First Avenue, Atlantic Highlands, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. January 31, 1951; and it is further

ORDERED that in the event a correction of the illegal situation is effected, leave will be given as aforesaid to make application to the Director for restoration of the license privileges.

ERWIN B. HOCK
Director.

5. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PRIOR RECORD OF CORPORATE LICENSEE IN WHICH DEFENDANT WAS PRINCIPAL STOCKHOLDER - PRIOR RECORD OF DEFENDANT - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against HENRY O. LOPEZ, T/a CUBA'S NITE CLUB, 1147 Springwood Avenue, Asbury Park, N. J., Holder of Plenary Retail Consumption License C-35, issued by the City Council of the City of Asbury Park.

CONCLUSIONS AND ORDER

J. Stanley Herbert, Esq., Attorney for Defendant-licensee. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he possessed on his licensed premises alcoholic beverages in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulations No. 20.

On November 22, 1950, an inspector employed by the Alcohol Tax Unit, Internal Revenue Service, Treasury Department, examined 36 bottles of alcoholic beverages on defendant's licensed premises and seized a 4/5 quart bottle of Lord Calvert Custom Blended Whiskey when his field tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by a Federal chemist disclosed that the contents of the seized bottle were not genuine as labeled.

It appears that defendant was president and principal stockholder of Henry O. Lopez, Inc., the predecessor in the alcoholic beverage business now conducted by defendant. The corporate licensee had a bad record. Its license was suspended by the local issuing authority for two days in 1937 for sales during prohibited hours, and again for fifteen days in 1942 for employing hostesses and permitting known prostitutes and immoral activities upon the licensed premises. Effective May 4, 1944, its license was suspended for fifteen days by the then Commissioner of Alcoholic Beverage Control after conviction of a charge alleging that it had allowed lottery tickets to be sold on its licensed premises. Re Henry O. Lopez, Inc., Bulletin 617, Item 7. Since defendant has been the licensee, his license was suspended by me for ten days, effective May 10, 1948, for failure to disclose in his license application the foregoing suspensions. Re Lopez, Bulletin 803, Item 1.

Under all the circumstances, I shall suspend defendant's license for a period of thirty days, less five days' remission for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 23rd day of January, 1951,

ORDERED that Plenary Retail Consumption License C-35, issued by the City Council of the City of Asbury Park to Henry O. Lopez, t/a Cuba's Nite Club, for premises 1147 Springwood Avenue, Asbury Park, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. January 29, 1951, and terminating at 2:00 a.m. February 23, 1951.

ERWIN B. HOCK
Director.

6. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALES TO NON-MEMBERS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

RIDGEFIELD PARK POST #40,
AMERICAN LEGION
79 Park Street
Ridgefield Park, N. J.,

CONCLUSIONS
AND ORDER

Holder of Club License CB-112, issued by the Director of the Division of Alcoholic Beverage Control.

Ridgefield Park Post #40, American Legion, Defendant-licensee, by James F. Gnecco, Commander.
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 persons not bona fide members or bona fide guests of such members, in violation of Rule 8 of State Regulations No. 7.

On December 6, 1950, two agents of the State Division of Alcoholic Beverage Control, neither of whom was a member or the guest of a member of defendant club, or a member of any other Post of the American Legion, entered the club barroom. The bartender then employed in defendant's barroom sold and served one bottle of beer to each of the agents.

The bartender offers as an excuse the claim that he thought the agents were with a member of the Post's ladies' auxiliary then attending a meeting of that organization. Even if this were true, it would offer no defense. Members of the ladies' auxiliary, unless actually members of the Post, may not be served alcoholic beverages by a club licensee, except as guests, individually, of a member of the club. Cf. Re Peditto, Bulletin 179, Item 7.

Defendant has no prior adjudicated record. I shall suspend the license for the minimum, fifteen days. Re Club Lido, Bulletin 773, Item 2. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 24th day of January, 1951,

ORDERED that Club License CB-112, issued by the Director of the Division of Alcoholic Beverage Control to Ridgefield Park Post #40, American Legion, for premises 79 Park Street, Ridgefield Park, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. January 30, 1951, and terminating at 3:00 a.m. February 9, 1951.

ERWIN B. HOCK
Director.

7. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL REGULATION - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

TRENTON LODGE #105, B.P.O. ELKS)
120 North Warren Street)
Trenton 8, N. J.,)

CONCLUSIONS AND ORDER

Holder of Club License CB-31, issued by the Director of the Division of Alcoholic Beverage Control.)

-----)
Trenton Lodge #105, B.P.O. Elks, Defendant-licensee, by Charles G. Pope, Exalted Ruler.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded non vult to a charge alleging that during the afternoon of Sunday, December 10, 1950, it sold and served alcoholic beverages, contrary to a local ordinance which prohibits such activity between 2:00 a.m. and 5:00 p.m. on Sundays.

An examination of the file herein discloses that at 3:00 p.m. on Sunday, December 10, 1950, two ABC agents observed more than 50 persons in defendant's barroom with glasses of alcoholic beverages in front of them. The ABC agents thereupon directed the manager to close the bar. Pursuant thereto, the manager ordered all persons to leave the barroom.

Defendant has a previous adjudicated record. Effective August 23, 1948, defendant's license was suspended for ten days, after entering a plea of non vult, because of a similar "hours" violation. Bulletin 813, Item 13.

Ordinarily the penalty for an "hours" violation of the type in question is fifteen days. In view of the previous suspension on a similar charge, I shall suspend defendant's license for a period of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days. Re Behling, Bulletin 811, Item 3.

Accordingly, it is, on this 29th day of January, 1951,

ORDERED that Club License CB-31, issued by the Director of the Division of Alcoholic Beverage Control to Trenton Lodge #105, B.P.O. Elks, for premises 120 North Warren Street, Trenton, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. February 5, 1951, and terminating at 2:00 a.m. March 2, 1951.

ERWIN B. HOCK
Director.

8. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AND FAILURE TO CLOSE PREMISES DURING HOURS SALES PROHIBITED BY LOCAL REGULATION - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

HENRY STANCZAK & JEAN STANCZAK)
47 Washington Avenue)
Paterson 3, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-364, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)

-----)
Henry Stanczak and Jean Stanczak, Defendant-licensees, Pro Se.
Vincent T. Flanagan, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded guilty to charges alleging that (1) they sold alcoholic beverages on their licensed premises after 3:00 a.m. and before 1:00 p.m. on Sunday, December 31, 1950; and (2) they failed to have their licensed premises closed during said hours; in violation of a local ordinance.

On December 31, 1950, at about 11:00 a.m., Jean Stanczak, one of the defendant-licensees, permitted two ABC agents to enter the rear room of the licensed premises. Upon entering the room the ABC agents observed four male customers seated at tables and consuming alcoholic beverages. The ABC agents were served alcoholic beverages by the aforesaid Jean Stanczak.

It appears that the liquor license in question was formerly held by Henry Stanczak, one of the defendants herein, in his individual name. During that time the license was suspended on two occasions. Effective January 18, 1943, his license was suspended for twenty-five days by the State Commissioner after a plea of guilty to charges of permitting gambling on his licensed premises. Bulletin 547, Item 9. Effective June 4, 1945, his license was suspended for thirty-five days by the State Commissioner after a plea of guilty to charges of sales of alcoholic beverages during prohibited hours, and sales of alcoholic beverages in original containers for off-premises consumption during prohibited hours. Bulletin 670, Item 9.

Ordinarily, because of the lapse of time, the prior record would not be considered. However, the violation which occurred in 1945 is similar to the violation in the instant case. Therefore, I must consider that violation. However, instead of doubling the penalty as is usual in considering a past record for a similar violation which occurred within five years, I shall, because of said lapse of time, add five days to the minimum suspension in "hours" cases. Cf. Re Capriotti, Bulletin 892, Item 6. The license will be suspended for twenty days, less five days' remission for the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 23rd day of January, 1951,

ORDERED that Plenary Retail Consumption License No. C-364, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Henry Stanczak and Jean Stanczak, for premises 47 Washington Avenue, Paterson, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. January 30, 1951, and terminating at 3:00 a.m. February 14, 1951.

ERWIN B. HOCK
Director.

9. DISCIPLINARY PROCEEDINGS - BOOKMAKING AND GAMBLING - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LORIS FRANCIS JARVIS, JR.)
T/a JARV'S)
387 Paterson Avenue)
East Rutherford, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-16, issued by the Mayor and Council of the Borough of East Rutherford.)
- - - - -)

Joseph P. Winberry, 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 December 13, 1950, and on divers days prior thereto, you engaged in and allowed, permitted and suffered bookmaking and gambling in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20."

An examination of the file in the instant case discloses that, on December 13, 1950, an ABC agent and a member of the State Police visited the licensed premises of defendant. They made known their identities to the bartender, subsequently identified as the licensee, and requested that the licensee empty his pockets. Pursuant to their request, the licensee produced five small slips of paper from his left sport shirt pocket. An examination of the said slips of paper by the investigators disclosed names of horses and amounts of money written thereon. The licensee also had two racing forms in the back pocket of his trousers. A package of pool tickets was found on the bar.

The investigators seized the above mentioned items, together with other paraphernalia which might pertain to the illegal activity.

Defendant has no previous adjudicated record. I shall, therefore, suspend his license for a period of twenty days, less five days' remission for the plea entered herein, leaving a net suspension of fifteen days. Cf. Re Ferment, Bulletin 635, Item 5.

Accordingly, it is, on this 24th day of January, 1951,

ORDERED that Plenary Retail Consumption License C-16, issued by the Mayor and Council of the Borough of East Rutherford to Loris Francis Jarvis, Jr., t/a Jarv's, for premises 387 Paterson Avenue, East Rutherford, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. January 31, 1951, and terminating at 2:00 a.m. February 15, 1951.

ERWIN B. HOCK,
Director.

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

In the Matter of Disciplinary Proceedings against)

JOHN A. DIXON)
362 Avon Avenue)
Newark 8, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-852, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

John A. Dixon, Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he possessed on his licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe the contents thereof, in violation of Rule 27 of State Regulations No. 20.

On December 29, 1950, an agent of the State Division of Alcoholic Beverage Control seized in defendant's licensed premises one 4/5 quart bottle labeled "Canadian Club Blended Canadian Whisky" when his field tests indicated a variance between the label on the bottle and the contents thereof. An analysis by the Division's chemist disclosed that said bottle contained an alcoholic beverage having a higher acid and solid content and more artificial coloring than a genuine sample of the whiskey described on the label. The bottle had apparently been refilled in whole or in part with another alcoholic beverage.

Defendant has no prior adjudicated record. I shall suspend the license for the minimum period of fifteen days. Re Rudolph, Bulletin 680, Item 1. Remitting five days because of the plea will leave a net suspension of ten days.

Accordingly, it is, on this 22nd day of January, 1951,

ORDERED that Plenary Retail Consumption License No. C-852, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to John A. Dixon, for premises 362 Avon Avenue, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. January 29, 1951, and terminating at 2:00 a.m. February 8, 1951.

ERWIN B. HOCK
Director.

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

In the Matter of Disciplinary Proceedings against)

HAWAIIAN PALMS, INC.)
T/a HAWAIIAN PALMS, INC.)
426 N. Wood Avenue)
Linden, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-19, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden.)

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

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold, served and delivered, and allowed, permitted and suffered the service and delivery of an alcoholic beverage on its licensed premises to minors, in violation of Rule 1 of State Regulations No. 20.

On December 14, 1950, two youths, respectively 19 and 20 years of age, were served several drinks of alcoholic beverages by a bartender at the defendant's licensed premises.

Defendant has no prior adjudicated record. In the absence of aggravating circumstances, I shall suspend the license for the minimum period of ten days. Re Dolan et al., Bulletin 777, Item 7. Remitting five days for the plea will leave a net suspension of five days.

Accordingly, it is, on this 22nd day of January, 1951,

ORDERED that Plenary Retail Consumption License C-19, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden to Hawaiian Palms, Inc., t/a Hawaiian Palms, Inc., for premises 426 N. Wood Avenue, Linden, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. January 29, 1951, and terminating at 2:00 a.m. February 3, 1951.

ERWIN B. HOCK
Director.

12. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PRIOR RECORD NOT CONSIDERED UNDER CIRCUMSTANCES OF CASE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

WILLIAM STARR & ANTONIA SIESS)
112 Van Buren Street)
Newark 5, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-710, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)
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William Starr & Antonia Siess, Defendant-licensees, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they possessed on their licensed premises alcoholic beverages in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulations No. 20.

On January 2, 1951, an agent of the State Division of Alcoholic Beverage Control seized on defendants' licensed premises one 4/5 quart bottle labeled "Canadian Club Blended Canadian Whisky" when his field test indicated a variance in the contents thereof from the whisky described on the label. An analysis by the Division chemist confirmed this finding and established that said bottle contained an alcoholic beverage not truly described on its label. See Rule 27, State Regulations No. 20.

Defendants have a previous adjudicated record. On January 17, 1951 their license was suspended for a period of three days by the local issuing authority, effective January 29, 1951, as a result of their conviction of employing a female bartender. However, since this suspension was imposed after the present violation was committed, I shall not consider the prior record in imposing a penalty herein. The license will be suspended for fifteen days, less five for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 30th day of January, 1951,

ORDERED that Plenary Retail Consumption License C-710, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to William Starr & Antonia Siess, for premises 112 Van Buren Street, Newark, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. February 1, 1951, and terminating at 2:00 a.m. February 11, 1951.

ERWIN B. HOCK
Director.

13. FAIR TRADE - NOTICE OF COMPLETE PUBLICATION.

The next official publication of minimum resale prices pursuant to Fair Trade rules (Revised Regulations No. 30) will become effective on April 1, 1951. Prices to be listed must be filed with the office of this Division not later than February 20, 1951. The publication will be a complete pamphlet in accordance with Rule 3 of Regulations No. 30, providing for issuance of quarterly complete publications.

In submitting price listings it is important to note the following:

1. The importance of listing all brands of alcoholic beverages (including malt beverages) is emphasized in light of Rule 6 of Revised Regulations No. 30 which prohibits price advertising of any brand not listed in Fair Trade.
2. It is suggested that close attention be given to the importance of a fair and adequate mark-up for the retailer.
3. Only manufacturers and wholesalers owning brands or wholesalers having specific written authorization of the owner of brands, may file price listings for publication in minimum resale price pamphlets.
4. Where listers of brands choose to publish a permissive case lot discount, the phrase "Discount of _____% permitted on case lot purchases" should be used.
5. True copies of labels or photostats of labels of brands listed in Fair Trade must be submitted with the price listings, if such labels have not been previously submitted.
6. Price listings may be submitted by letter in the same form as heretofore but must bear a statement certifying the existence of a Fair Trade contract between the manufacturer or wholesaler and a licensed New Jersey retailer. It is important to note that copies of such Fair Trade contracts need no longer be filed with the Division.

Notification of the proportionate share of aggregate expenses involved in the publication of the complete pamphlet will be made to participating companies as soon as the pamphlet is mailed to all retail licensees.

Dated: February 6, 1951.

ERWIN B. HOCK
Director.

14. STATE LICENSES - NEW APPLICATIONS FILED.

Essex Wine & Liquor Co., Inc.

9 Clinton St., Newark, N. J.

Application filed February 5, 1951 for transfer of Plenary Wholesale License W-45 from Penn Beverage Co., Inc., 611-615 Atlantic Avenue, Atlantic City, N. J.

Highway Transportation Company, Inc.

429 and 415 Bellevue Avenue, Hammonton, N. J.

Application filed February 7, 1951 for additional warehouse at Absecon Blvd. -- Penna Ave. & Sewell Avenue, Atlantic City, N.J.

Erwin B. Hock

Director.