STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
25 Commerce Drive Cranford, N.J. 07016

BULLETIN 2190 July 22, 1975

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ITEM

STATE OF NEW JERSEY
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1. APPELLATE DECISIONS - ALLAIRE LOUNGE & LIQUORS, INC. v. WALL.

Allaire Lounge & Liquors, Inc., Appellant,	)	On Appeal
v.	)	CONCLUSIONS AND ORDER
Township Committee of the Township of Wall, Respondent.	)	

Abramoff, Apy & O'Hern, Esqs., by Daniel J. O'Hern, Esq.,
Attorneys for Appellant
Mangini, Gilroy & Cramer, Esqs., by John Jay Mangini, Esq.,
Attorneys for Respondent
Lautman, Rapson & Henderson, Esqs., by C. Keith Henderson, Esq.,
Attorneys for Objector.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent, Township Committee of the Township of Wall (hereinafter Committee) which, on December 26, 1974, denied appellant's application for a person-to-person and place-to-place transfer of Plenary Retail Consumption License C-9, from Wall Herald Corporation to appellant, and from Monmouth County Airport, Route 34 to 1732 Route 35, Wall Township.

The petition of appeal contends that (1) there was no finding of facts upon which the Committee's action was based; and (2) its action was arbitrary in that it was unsupported by sufficient evidence to justify a denial of transfer. The Committee denied these contentions and supported its denial with a lengthy statement of reasons for its action.

A de novo hearing on appeal at this Division was held pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded all parties to introduce evidence and cross-examine witnesses. Additionally, transcripts of the proceedings before the Committee, held on December 11 and

December 26, 1974, respectively, were received in evidence in accordance with Rule 8 of State Regulation No. 15.

It was stipulated by counsel that the Committee adopted its resolution denying the subject transfer respecting the place-to-place aspect of the application and made no finding with respect to the person-to-person transfer application. Thus the subject of this appeal relates solely to the denial of the place-to-place application.

The facts surrounding the application for transfer are not in substantial dispute. From maps and sketches introduced into evidence, it appears that Wall Township is a spade-shaped municipality embracing some thirty-five square miles, and is located just westerly of and bordering upon five smaller municipalities lying along the Atlantic Ocean. Several principal highways bisect this municipality, all of which run north to south (State Highways 34, 35, 18 and the Garden State Highway) with the sole exception of State Highway 38. Its most easterly highway, Route 35, roughly parallels the ocean and between it and the borders of the neighboring communities dwell most of the population. It is to that area, near the junctions of Routes 35 and 38, at a shopping center, the appellant proposes to move the subject license. The present premises are located at the extreme westerly area of the township, which contains few homes, an industrial zone and the county airport.

At the hearing in this Division, Committeemen Donald McKelvey and James J. White testified that they, along with their colleagues, considered the benefits to the Township resulting from the grant or denial of the appellant's application for transfer. They affirmed the eleven reasons for denial as set forth in the answer to appellant's petition. These related primarily about the excessive number of present licenses in the vicinity of the proposed situs, including the heavy concentration of licenses nearby in the bordering communities. One of the objections listed, i.e., that appellant has a vested interest in another licensed business, was withdrawn at the hearing.

Testifying on behalf of appellant, a local realtor, A. Fred Maffeo asserted that the alleged concentration of licenses was not a viable objection because the concentration of population in the proposed area is so significantly higher than in the area where the present licensed premises are located, that the number of licenses serving such heavier population group would not result in a concentration. He disputed the potential of a heavy traffic increase to the area for which the transfer was sought. He described the present licensed premises as a one-story building adjacent to the airport hanger where too little traffic flow existed to justify a licensed business.

Appellant also argues that the Committee did not state the reasons for its objection, as required by Rule 8 of State Regulation No. 2; hence, its action should be reversed. The adopted resolution contains merely one sentence ascribing its reason; "...Committee has determined that it would be in the public interest to deny the application for said transfer;...."

Although I find this contention lacks merit because the stated reason is in compliance with the said Rule, it would have been the better practice if the Committee had set forth in detail its reasons in the resolution, similar to those set forth in its answer. Had this been done, this appeal might not have been taken. Indeed, under the spirit of the Rule, the appellant would be entitled to be informed of the specific reasons for its action in rejecting the said application.

The burden of establishing that the action of the Board in granting the transfer was erroneous and should be reversed rests with appellant. Rule 6 of State Regulation No. 15. It has been consistently ruled that no one has a right to the issuance or transfer of a license to sell alcoholic beverages. Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946); Biscamp v. Teaneck, 5 N.J. Super. 172 (App. Div. 1949). The decision as to whether or not a license will be transferred to a particular locality rests in the first instance within the sound discretion of the local issuing authority. Hudson-Bergen County Retail Liquor Dealers Assn. v. North Bergen et als., Bulletin 997, Item 2. Where there is an honest difference of opinion in the exercise of discretion for or against the transfer of a liquor license, the action of the issuing authority in approving the transfer should not be disturbed. Paul v. Brass Rail Liquors, 31 N.J. Super 211 (App. Div. 1954). A local issuing authority has been held to possess wide discretion in the transfer of a liquor license, subject, of course, to review by this Division in the event of any abuse thereof. Passarella v. Atlantic City et als., 1 N.J. Super. 313 (1949).

In Fanwood v. Rocco, 33 N.J. 404, 414 (1960), Justice Jacobs stated:

> "Although New Jersey's system of liquor control contemplates that the municipality shall have the original power to pass on an application for a tavern or package store license or the transfer thereof, the municipality's action is broadly subject to appeal to the Director of the Division of Alcoholic Beverage Control. The Director conducts a de novo hearing of the appeal and makes the necessary factual and legal determinations on the record before him.... Under his settled practice, the Director abides by the municipality's grant or denial

of the application so long as its exercise of judgment and discretion was reasonable...."

In short, the action of the municipal issuing authority should not be reversed by the Director unless he finds the "act of the board was clearly against the logic and effect of the presented facts." Hudson-Bergen County Retail Liquor Stores Assn. v. Hoboken, 135 N.J.L. 502, 511. Cf. Teofilak v. Wildwood et al., Bulletin 1782, Item 2.

It is apparent that the present licensed business is not a productive one in its present location. As a satellite business to the quiet airport, it serves few passengers and employees of the airport with a sprinkle of industrialists whose plants surround the airport. Nonetheless, it serves the airport community and the Township Committee considers this to be a needed public service.

However, based upon the legal principles enunciated, it is equally apparent that the Committee acted circumspectly, each member weighing the issue by the standard of his own values against those of the common good. In such situation the Director's function is limited to an affirmance of the local action. Cf. Lyons Farms Tavern Inc. v. Newark, 55 N.J. 292, 303 (1970).

I find, therefore, that the appellant has not maintained its burden of establishing that the action of the Committee was erroneous as required by Rule 6 of State Regulation No. 15. It is, accordingly, recommended that the action of the Committee be affirmed, and the appeal be dismissed.

Conclusions and Order

Written exceptions to the Hearer's report with supportive argument were filed by the appellant, and written answers to the said exceptions, with supportive argument were filed by respondent, pursuant to Rule 14 of State Regulation No. 15.

In its exceptions, appellant contends that "only informal deliberations were made by the committeemen which did not result in a formal resolution setting forth the facts and reasons for the denial of the transfer at that time." The record, to the contrary, discloses that the action of the Committee was, in fact, taken at a public meeting, and formalized in a resolution adopted at that meeting.

The said resolution recited that the Committee's action was bottomed on its finding that the denial of the said application would be in the public interest. Cf. Blanck v. Magnolia, 38 N.J. 484 (1962); Fanwood v. Rocco, supra.

Under settled principles, the action of the Committee should not be disturbed on this appeal, absent manifest mistake or clear

abuse of its discretion. Rajah Liquors v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 598 (App. Div. 1955); Biscamp v. Teaneck, supra.

I find no such abuse by the Committee of its lawful exercise of discretion.

Appellant also contends that the Hearer failed to note that the vote to deny was three to two, and that the testimony of the two witnesses who were members of the Committee at the time the action was taken "may differ" from that part of the presently constituted Committee. This is, of course, irrelevant because the appeal is from the determination of the issuing authority as it was then constituted.

Finally, I am persuaded that the record supports the soundness of the Committee's action in its determination that the license at its present location performs a needed public service, and that the interests of the public were best served by the denial of appellant's transfer application. Fanwood v. Rocco, supra; N.J.S.A. 33:1-24.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits, the Hearer's report, and the exceptions thereto, and the answer to the said exceptions, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 15th day of May 1975,

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

Leonard D. Ronco
Director

2. APPELLATE DECISIONS - MOON STAR, INC. v. JERSEY CITY - RETURN OF ORDER TO SHOW CAUSE - STAY OF REVOCATION ORDER DENIED.

Moon Star, Inc.)
Appellant,)
v.)
Municipal Board of Alcoholic Beverage Control of the City of Jersey City,)
Respondent.)

On Appeal

O R D E R

Salvatore Perillo, Esq., Attorney for Appellant
Dennis L. McGill, Esq., by Bernard Abrams, Esq., Attorney for Respondent

BY THE DIRECTOR:

This matter comes before me upon the return of an Order to Show Cause, dated April 28, 1975, why the respondent's Order of Revocation should not be stayed pending the determination of the within appeal.

The appellant appealed from the revocation by the respondent (Board) of its Plenary Retail Consumption License, by resolution dated April 18, 1975 for premises located at 268 Duncan Avenue, Jersey City. The revocation became effective on April 28, 1975.

Upon appeal to this Division, the said revocation was continued pending the return of the said Order to Show Cause, after I examined the pleadings and took into consideration the prior history of this matter. N.J.S.A. 33:1-31 and Rule 11 of State Regulation No. 15.

Before considering the record which was submitted to me without any recommendations by a Hearer who presided at the Show Cause hearing, a brief history of this matter would be appropriate.

On June 12, 1973, the Board denied appellant's application for renewal of its said license for the 1973-74 license period. On appeal to this Division, the action of the Board was reversed, based upon the Hearer's recommendation that "appellant be given another opportunity to demonstrate its worthiness to hold a license, subject to the special condition that a special police officer or uniformed guard shall be forthwith employed by appellant and that the public area in front of and alongside of the licensed premises be kept free of loiterers, debris,

illegal parking and loud noise. In the event of appellant's failure to comply with the said special condition, it is expected that, prior to the time of renewal, the Board will institute disciplinary proceedings formally to effect the suspension or revocation of the said license, in accordance with the provisions of N.J.S.A. 33:1-31." This recommendation was adopted by the then-Director, and included in Conclusions and Order dated November 16, 1973. Re Moon Star, Inc. v. Jersey City, Bulletin 2130, Item 3.

Appellant appealed from the imposition of the special condition to the Appellate Division of the Superior Court, which, by order dated November 27, 1973, granted a stay of the said special condition until the determination of the said appeal. This appeal is presently pending. Re Moon Star, Inc. v. Division of Alcoholic Beverage Control, (Appellate Division 1973, Docket No. A-621-73). Appellant has, therefore, not employed such special police officer at any time prior hereto, and as of this date.

At the hearing herein, the Board's attorney offered the voluminous transcript of the hearing before the respondent Board. However, the attorney for the appellant objected to the admission at this Show Cause hearing and the transcript was not received in evidence. However, the Board produced two witnesses in support of its contention that the said Order of Revocation should not be stayed pending the determination of this appeal.

Mrs. Yolanda Cepero, a mother of three young children who resides near the said tavern, testified that, from July 1, 1973 to the date of the hearing, conditions have made life unbearable for her and her family, as well as for other residents in the area. Specifically, she stated that alcoholic beverages were being sold by the appellant to minors; that she personally observed patrons, who purchased alcoholic beverages in this tavern sell them to minors outside the tavern; continual drinking of liquor by patrons of appellant in front of the tavern; women passing the tavern were molested and subjected to abusive language; men exposed themselves in front of her children and urinated outside the premises. She has had to walk her children to and from school, and her children were also subjected to these abuses.

In addition, she has personally been harassed and threatened. She also noted that there are many traffic problems created by patrons, many of whom are driving out-of-State licenses. Finally, she said she felt "safer" since the premises were closed by the order of the Board.

Joseph M. McNally, who lives a few houses up from the tavern, is the father of four children and owns his home. He kept a diary of specific numerous incidents, which are set forth in the transcript before me. Among his complaints were: his daughter complained of frequent foul language to which she was subjected to by patrons of appellant; saw both males and females take liquor from the tavern and drink in front of the premises; recorded disturbances on numerous occasions; and patrons came out of the tavern and urinated at or near the premises. In addition,

he complained of the loud noise in the tavern and disturbances from its patrons at night which interfered with the peace and quiet of the neighborhood and the sleep of himself and his family.

He recorded incidents of appellant's patrons drinking in cars in front of his house. Additionally, he observed persons who, he believed were patrons of this tavern, committing sex acts in a motor vehicle which was parked in front of his house. He noted that, in February 1975, there was a shooting outside the tavern.

He had complained to the operator of these premises on four occasions, and he felt frustrated that no action was taken. However, since the premises were closed by order of the Board, he has observed a marked improvement in the conditions in the area.

On behalf of the appellant, William M. Moore, the president and principal stockholder testified that he had been operating this facility for the past three years and denied that he sells any package goods. He asserts that there is a package liquor store directly across the street which sells to persons who drink in front of his premises.

Because of various complaints he decided to open his premises at 3:00 p.m. a year ago and now begins his operation at 4:00 p.m.

With respect to the shooting incident that occurred on February 17, 1975, he alleged that a man attempted to shoot the bartender but accidentally struck a patron.

He has put signs on outside the tavern marked "No Loitering"; and he insists that those persons who do loiter are not his patrons.

The respondent offered into evidence a petition signed by teachers and administrators of Public School No. 39 in Jersey City, which is located on the same block as this tavern. The petition states that the students and faculty must pass this bar several times a day on their way to and from school. The petition further states that:

> "Over the past two years, we have seen this bar attract, and become a hangout for, individuals who panhandle money from our younger students and pass remarks to our older girls. This bar presents a totally negative and unhealthy atmosphere to our students, and the characters who hang around the bar set examples for our students which is diametrically opposed to everything we teach them. Therefore, we wish to add our voices to those of the decent citizens of this neighborhood, and we urge the Jersey City A.B.C. to refuse renewal of the license to this bar which represents a serious threat to the Health, Safety and Morals of our students."

Numerous other letters in a similar vein, together with a petition signed by residents and members of Saint Aloysius Church were received in evidence. Some of these letters recite incidents where patrons of this establishment have made indecent proposals to young girls; passersby have been solicited for money and harassed and were subjected to foul language by patrons of the tavern; they also complained of cars double-parked, and some vehicles in which patrons of this tavern were drinking and performing sex acts.

Letters of complaint by residents of this area were also sent to the Governor and to the Director of this Division.

After carefully considering the record herein, including the transcript of testimony, the exhibits, and the argument of counsel, I have determined, in the exercise of my discretion, as authorized by N.J.S.A. 33:1-31 and Rule 11 of State Regulation No. 15, to continue the Board's Order of Revocation pending the determination of this appeal.

This determination is made without prejudice to my ultimate determination, upon my consideration and evaluation of the entire record developed at the final hearing.

Accordingly, it is, on this 23rd day of May 1975

ORDERED that the Board's Order of Revocation herein be and the same is hereby continued in effect, in accordance with my Order dated April 28, 1975, until the determination of this appeal, and the entry of a further Order herein; and it is further

ORDERED that the Order To Show Cause herein be and the same is hereby discharged.

Leonard D. Ronco,
Director

3. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PROOF OF AGE DETERMINED FROM RECORD INFORMATION ONLY - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against Victorian Pub, Inc. t/a Victorian Restaurant & Lounge 400 Washington Street Cape May, N.J. Holder of Plenary Retail Consumption License C-6, issued by the City Council of Cape May City.	CONCLUSIONS and ORDER

George M. James, Esq., Attorney for Licensee
David S. Piltzer, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded "not guilty" to a charge alleging that, on August 30, 1974, it sold alcoholic beverages to a minor, age 16, in violation of Rule 1 of State Regulation No. 20.

On behalf of the Division, ABC Agent P testified that, at about 12:40 a.m. on August 30, 1974, accompanied by ABC Agents W and I, he entered the licensed premises.. He observed three young males being served, one of whom appeared to him to be extremely young. All three were served drinks; the youngest of them was served with a drink called a "tequila sunrise." The waitress took payment for the drinks. At the time of observation, the agents were fifteen feet away.

One of the youths, later identified as John W---, was approached by the agent who ascertained that he was sixteen years of age; he was born in Philadelphia on November 18, 1957. Before determining this however, John W had produced a Pennsylvania driver's license issued to one Johnny Powers indicating a birth date of May 7, 1956. The drink was seized, and the agents identified themselves to the waitress.

The minor provided certain information concerning his identity. This included his place of birth, his father's full name, his parents' address, status as a student in a Pennsylvania High School and his residence telephone number.

The waitress was thereupon questioned concerning the service of the drink to the minor. She explained that minors were supposed to have been checked by a doorman. She admitted that the alcoholic beverage served was called a "tequila sunrise".

The agent also identified himself to James J. Goodroe, a stockholder of the corporate licensee, in the kitchen of the licensed premises.

The seized drink was submitted in due course, to the Division laboratory for examination and analysis. It was found to contain the requisite amount of alcohol to come within the statutory definition of N.J.S.A. 33:1-1.b.

ABC Agent W who accompanied Agent P to the premises, corroborated Agent P's testimony.

James B. Sharp, a legal assistant in this Division testified that, although a subpoena ad testificandum and accompanying letter was mailed to the minor, he did not respond to the communication. He endeavored to obtain the presence and testimony of the minor by following up the letter and subpoena with a telephone call to the minor and his father. The minor informed him that he would not appear at the hearing, and that he would have to discuss the matter with his father.

Sharp called back and spoke with an individual who declared that he was the subject minor's father and knew of the communication sent by the Division to his son. Sharp stated that his offer that the Division would pay mileage to the minor for his appearance at the hearing followed up by his offer to have his son picked up by a Division agent and returned home, were refused.

Since the minor was a non-resident of New Jersey, the subpoena lacked legal force.

The Division offered in evidence a Certificate of Birth, issued by the Commonwealth of Pennsylvania, Department of Health Vital Statistics, No. 398844 which disclosed the birth of John Thomas Wise on November 18, 1957 to Arthur Russel Wise and Joan Dolores Daily, at Philadelphia.

No witnesses were called on behalf of the licensee.

That a sale of an alcoholic beverage was made to the alleged minor was not controverted. However, the age of the alleged minor was challenged by the licensee. Hence, the crucial issue presented for determination is: May the age of a minor be legally established through the testimony of the agents, considering the alleged admission to them by the minor, coupled with an official record of the minor's birth.

In order to arrive at a determination herein, reference is made to Rule 63 (23) of the Rules of Evidence adopted by the New Jersey Legislature, N.J.S.A. 2A:84A, et seq., which by order of the Supreme Court of New Jersey were made effective September 11, 1967, which reads as follows:

> "STATEMENTS CONCERNING ONE'S FAMILY HISTORY
> A statement of a matter concerning a declarant's own birth, marriage, divorce, legitimacy, ancestry, relationship by blood or marriage, or other similar fact of his family history is admissible, even though the declarant had no means of acquiring personal knowledge of the matter declared, if the declarant is unavailable as a witness."

Since the hearsay relates to a declaration made by the alleged minor concerning his birth, I find that the declaration is admissible as an exception to the hearsay rule.

Thus, I find that the alleged minor was sixteen years of age at the time of the sale and delivery of the alcoholic beverage to him on the date alleged in the charge.

I, therefore, recommend that the licensee be found guilty as charged.

The licensee has no prior adjudicated record. I, further, recommend that the license be suspended for twenty days.

Conclusions and Order

Written exceptions to the Hearer's report, with supportive argument were submitted by the attorney for the licensee, and written answer to the said exceptions with supportive argument, were filed by the attorney for the Division, pursuant to Rule 6 of State Regulation No. 16.

In its exceptions, the licensee contends that the Hearer erred in sustaining his decision with respect to the minor's age, on hearsay evidence. It argues, that, even if such evidence were admissible as an exception to the hearsay evidence rule, it cannot be converted into "legal and competent evidence" upon which to base his determination.

This argument misses the point. Once the evidence is admitted into evidence as an exception to the exclusionary hearsay evidence rule, it becomes, in law, competent evidence to the same extent as other competent evidence. Thus, the cases cited by licensee to the effect that an administrative agency's decision must be supported by legal and competent evidence do not adversely affect the Hearer's report.

The licensee maintains that, in order for the hearsay evidence to be admissible under the exception provided in R. 63 (23), Rules of Evidence, For Statements Concerning One's Own Family History, the declarant must be "unavailable" as a witness within the meaning of R.62 (6).

The licensee contends that the Division did not "demonstrate a foundation sufficient to warrant admissibility of the exception to the hearsay evidence rule" because it did not establish that the declarant is unavailable as a witness, within the intendment of the aforementioned Evidence Rules 63(23) and 62(6). It bases this contention upon the allegation that the Division did not prevail upon the Municipal Court to set a bond to insure the minor's appearance in this matter.

It is clear, however, that this Division has no control over the Court; only the Court has authority to require a bond. And even if a bond were posted, its purpose is merely to insure the minor's appearance for the juvenile delinquency proceedings, not with respect to ancillary civil matters such as the matter sub judice. See R.5:8-6(e) (1) (A).

I fail to find any "culpable neglect" on the part of the Division as would make the minor not "unavailable". I find, from my examination of the record, that the Division made every reasonable attempt to produce the minor; nor, could the minor's deposition have been taken with the exercise of reasonable diligence, since there is no court procedure to compel the same.

I, therefore, conclude that the minor was unavailable, within the meaning of Rules 63 (23) and 62(6). I, therefore, find that the exceptions herein have no legal foundation, and are lacking in merit.

Having carefully considered the entire matter herein, including the transcript of the testimony, the exhibits, the Hearer's report, the exceptions filed with respect thereto, and the answer to the said exceptions, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 16th day of May 1975,

ORDERED that Plenary Retail Consumption License C-6, issued by the City Council of the City of Cape May to Victorian Pub, Inc., t/a Victorian Restaurant & Lounge for premises 400 Washington Street, Cape May, be and the same is hereby suspended for twenty (20) days, commencing 1:00 a.m. on Thursday, May 29, 1975 and terminating 1:00 a.m. on Wednesday, June 18, 1975.

Leonard D. Ronco
Director

4. ELIGIBILITY PROCEEDINGS - DISORDERLY PERSON NOT DISQUALIFIED MANDATORILY FOR ALCOHOLIC BEVERAGE INDUSTRY - PENDING CRIMINAL ACTION REQUIRES LATER DETERMINATION.

Eligibility No. 815

The Division instituted this self-initiated proceeding to determine whether or not this individual, who is presently employed by a wholesale licensee, is eligible to be so employed or associated with the alcoholic beverage industry in this State in view of his convictions for various violations of the law.

The subject's record reveals the following:

On November 11, 1969, subject was convicted of petty theft in the Berkeley-Albany (California) Municipal Court, and was sentenced to 180 days in the County Jail, one day suspended.

On January 5, 1970, subject was convicted of illegal possession of a firearm in the Berkeley-Albany (California) Municipal Court, and was sentenced to 180 days in the County Jail, one day suspended.

On May 27, 1972, subject was convicted of use of a controlled dangerous substance in the West Orange Municipal Court, and was placed on six months supervisory probation.

On December 27, 1972, subject was convicted of being under the influence of a controlled dangerous substance in the Orange Municipal Court, and was fined $25.00.

On May 30, 1973, subject was convicted of assault and battery and being under the influence of a controlled dangerous substance in the Verona Municipal Court. He was sentenced on both convictions to three months in the Essex County Jail; sentence was suspended and he was fined $100.00 and placed on probation for one year.

On July 16, 1973, subject was convicted of possession of burglary tools, a disorderly persons offense in the Orange Municipal Court, and was sentenced to 90 days in the Essex County Jail.

On July 12, 1974, subject was charged by the West Orange Police Department with possessing 22 grams of hashish, in violation of N.J.S.A. 24:21-20a(3). Such charge, a high misdemeanor, is presently pending before the Essex County Grand Jury.

Upon reviewing the subject's record, I make the following conclusions and findings:

(1) The subject's convictions in the State of California will be considered offenses similar in nature as under the Disorderly Persons Act of the State of New Jersey, N.J.S.A. 2A:170-1 et seq. More specifically, petty theft, a violation of N.J.S.A. 2A:170-30.1 and possession of an illegal firearm, a violation of N.J.S.A. 2A:170-3.

(2) All of subject's convictions in the State of New Jersey are for Disorderly Persons offenses.

Since a Disorderly Person conviction is not a conviction of a crime, the subject is not mandatorily disqualified from association with the alcoholic beverage industry. (Re Case No. 2053, Bulletin 1701, Item 6)

However, the subject is to be advised that if the action now pending before the Essex County Grand Jury for possession of hashish, in violation of N.J.S.A. 24:21-20a(3) results in a conviction for such crime, a new determination will be made as to whether this subject is eligible to continue his employment with a wholesale licensee, or to be associated in any capacity in the alcoholic beverage industry in this State.

Leonard D. Ronco,
Director

May 15, 1975