

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

September 11, 1963

BULLETIN 1527

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
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September 11, 1963

BULLETIN 1527

1. COURT DECISIONS - KALMAN AND PRICKETT v. SOUTHAMPTON AND DIRECTOR, DIVISION OF ALCOHOLIC BEVERAGE CONTROL - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

A-222-62

ANDREW KALMAN and ADA I.)
PRICKETT,)
)
Appellants,)
)
v.)
)
TOWNSHIP COMMITTEE OF THE)
TOWNSHIP OF SOUTHAMPTON, and)
THE DIRECTOR OF THE DIVISION)
OF ALCOHOLIC BEVERAGE CONTROL,)
)
Respondents.)

Heard: June 10, 1963 - Decided August 6, 1963

Before Judges Sullivan, Lewis and Labrecque.

Mr. James M. Davis argued the cause for the appellants (Messrs. Powell & Davis, attorneys, Mr. Paul R. Kramer, of counsel).

Mr. Martin L. Haines argued the cause for the respondent Township Committee of the Township of Southampton (Messrs. Dimon, Haines & Bunting, attorneys, Mr. Haines, of counsel).

Mr. Herbert S. Alterman, Deputy Attorney General, argued the cause for the respondent Director of the Division of Alcoholic Beverage Control (Mr. Arthur J. Sills, Attorney General of New Jersey, attorney, Mr. Alterman, of counsel).

LABRECQUE, J. S. C. (temporarily assigned)

This is an appeal from the affirmance by the Director of the Division of Alcoholic Beverage Control of decisions of the Township Committee of the Township of Southampton denying a person to person, place to place transfer of a plenary retail consumption license and denying renewal of such license. (Re Kalman and Prickett v. Southampton, Bulletin 1484, Item 2.)

Since 1954 appellant Ada I. Prickett had been the holder of a plenary retail consumption license for a tavern known as the Mickey Mouse, located on U. S. Highway 206, one and one-half miles south of the Red Lion Circle in Southampton Township.

Although the tavern was never thereafter operated by her, the license was renewed annually until June 1962. In May of that year, in connection with a proposed sale of the license to the appellant Andrew Kalman, application was made to the Township Committee for transfer of the license to him for a new location, said to be one mile south of Vincentown, and between four and five miles from the original location. Following a hearing at which considerable opposition developed, the application was unanimously denied. A timely appeal was taken to the Division of Alcoholic Beverage Control.

On June 19, 1962, while the Kalman appeal was pending, Mrs. Prickett's application to renew the license came before the Township Committee. We are not clear as to whether it was for the old or new location. (her petition of appeal recites the latter). In any event, the renewal was unanimously denied and this determination was likewise appealed to the Division. The two appeals were referred to a Hearer in the Division and were heard together by him. A report recommending affirmance of the actions of the licensing authority, to which exceptions were filed, resulted in an order by the Director adopting the findings and conclusions of the Hearer and affirming the Township Committee.

Southampton Township has a population of between 3200 and 3400. The license in question was one of five plenary retail consumption licenses in the township. It had originally been issued to the appellant Prickett but upon her marriage it had been transferred to her mother. When the latter became ill, in December 1954, it was retransferred. As noted above, the tavern was not thereafter operated. Mrs. Prickett testified that soon after she took possession vandals had broken in, stolen the stock, and wrecked the inside of the building generally. It eventually disintegrated and was condemned. In its condition in June 1962 it could not qualify as a location for a tavern. The failure to operate the business is excused on the ground that the appellant suffered illness and death in her family and was financially unable to undertake the restoration of the premises.

At the hearing in the Division, testimony was given by the appellants and by four witnesses in opposition. One of the latter testified that approximately 100 persons had opposed the transfer before the Township Committee and that a petition opposing it, containing more than 500 signatures, had been presented at the same time. The minutes of the Township Committee denying the transfer recite that:

"The premises to be licensed constitute a traffic hazard with respect to traffic on Route 206. The premises to be licensed is situate only 1/2 mile from another licensed tavern."

Appellant Andrew Kalman contends that the nearest licensed premises are one and one-tenth miles away and that the proposed location of the tavern would not constitute a traffic hazard.

The appellant Prickett asserts that the refusal to renew was erroneous in view of the pendency of the Kalman appeal, and of the failure to afford her a hearing on her application. The respondent Township Committee contends that its action in denying the application to renew the license was proper and

justified in view of the nonuse of the license for eight years. It denies that a hearing on the application was called for, but asserts that its action was nevertheless taken at a meeting held for consideration of applications for license renewals, at which she could have appeared had she desired.

We turn first to consideration of the Kalman appeal. The basic principles applicable to our review herein, are set forth in Rajah Liquors v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 598, 600 (App.Div. 1955), certif. denied 18 N.J. 204 (1955) as follows:

"The law entrusts the local board with a discretion as to the transfer of liquor licenses. *** And the State Division on an appeal in such a matter, *** will interfere in the exercise of the board's discretion only because of an abuse of the discretion, *** - that is, because of a manifest mistake, *** clearly unreasonable action, or some more untoward impropriety. Such is the scope of review before the Division in such a matter, notwithstanding that testimony is taken de novo. ***

However, the State Division on such an appeal is likewise invested with a discretion, and accordingly we, on appeal from it, will not interfere in the exercise of its discretion unless there has been a manifest mistake or a more gross transgression on its part."

Here the local board determined against the location of a license at the proposed site. It found that the transfer of the license to the new location would create a traffic hazard. We do not find that the Director's affirmance of this action was unreasonable or illegally groundless. Biscamp v. Twp. Council of the Twp. of Teaneck, 5 N.J. Super. 172 (App.Div. 1949). See also Fanwood v. Rocco, 33 N.J. 404, 415 (1960), affirming Fanwood v. Rocco, 59 N.J. Super. 306 (App.Div. 1960). There was ample testimony to sustain his finding that this determination did not constitute an abuse of its discretionary power. U.S. Route No. 206 to which it was proposed to transfer the license, was a heavily travelled highway, especially during the summer months. It had no sidewalks. The speed limit on it was 50 miles per hour. Customers from the proposed tavern could generally be expected to arrive and depart by automobile. The heavy traffic on the highway would present a constant hazard to either pedestrians or motorists leaving the tavern.

Over and beyond this, the local issuing authority was vested with discretion in determining where in the township the public interest required that licensed taverns be permitted. It could, in the exercise of its discretion, decline to permit licensed taverns in designated areas and in so doing give reasonable consideration to local sentiment in that regard. Thus in Fanwood v. Rocco, supra, (33 N.J. at p. 415) it was said:

"*** The record leaves no room for doubt that widespread local sentiment favors keeping the area free of taverns and package stores and it matters little that this sentiment may have resulted in part from moral precepts and in part from the general objections voiced in the testimony of the councilmen. The fact is that the sentiment

does exist and in honoring it the governing body did not act at all unreasonably. The interests of effective liquor control are best advanced where the municipal licensing program displays fair regard not only for the convenience of residents who purchase alcoholic beverages but also for the sentiments of residents who are unsympathetic or hostile to their sale. ***"

To the same effect was Fanwood v. Rocco, supra, (59 N.J. Super. p. 320).

"As we have indicated, when a municipality decides in good faith that a substantial area within its boundaries in which there are no taverns or package stores shall remain that way, the Director may not interfere. That there are no licenses in the area is no reason that there should be one. Cf. Mauriello v. Driscoll, 135 N.J.L. 220 (Sup. Ct. 1947). Nor does the municipality need to have any articulated reasons for keeping the area inviolate. It is sufficient if in good faith and not with the intention of oppressing the individual applicant the governing body wants it that way. If the motive of the governing body is pure, its reasons, whether based on morals, economics, or aesthetics, are immaterial. ***"

In the instant case widespread local sentiment also seems to have been opposed to the transfer of the license to the new location. According to Mrs. Prickett's own testimony, the effect of the transfer would have been to bring the tavern some four or five miles closer to Vincentown. The proposed location was said to be between three-tenths and four-tenths of a mile from Main Street, Vincentown. There were two licensed bars already located on Main Street in Vincentown proper. Two of the town's three churches were also located on Main Street. Up to the time in question, the area between Main Street, Vincentown, and the Hob Nob, located one mile north of the Red Lion Traffic Circle, had been free of taverns. Appellant's license had called for a location one and one-half miles south of the Red Lion Traffic Circle and the fifth license was issued for premises in Red Lion proper. The determination of the Township Committee not to permit a tavern in the area in question was not unreasonable in view of the opposition generated by the application. We accordingly do not find that the Division abused its discretion in affirming the action of the committee denying the transfer.

We note the appellants' contention that there are other licensed premises along the same highway which are subjected to the same conditions as are the proposed premises. But the fact that in the past licenses have been inadvisedly granted would not require the local authorities to further perpetuate such earlier unwise actions by according the same treatment to the present appellants. Biscamp v. Twp. Council of the Twp. of Teaneck, supra, (5 N.J. Super. at p. 175); Price v. Excise Board of Town of Millburn, 29 N.J. Super. 103, 108 (App.Div. 1953).

We next turn to consideration of the Prickett appeal from the denial of the renewal of her license. Briefly, she asserts that the Township Committee failed to accord her a hearing, thus denying her due process; that it failed to set forth reasons for its action; and that, if nonuser constituted the reason,

justification for the same had been established.

Her claim of denial of due process is buttressed upon her contention that that portion of R.S. 33:1-24 which provides that the issuing authority shall "conduct public hearings on applications and revocations" required that she be granted a "hearing" at the municipal level on her application to renew. We do not read the statute as requiring more than that the application for renewal of a license be considered by the issuing authority at a regular meeting or a special meeting called for that purpose, at which the applicant and other interested parties may be heard if they so desire. We note that the Rules of the Division require hearings when protests are lodged in order to afford objectors an opportunity to be heard before an application is granted, but that they dispense with this requirement if the issuing authority "shall have determined not to issue" the license. Rules and Regulations, Division of Alcoholic Beverage Control (1957), Regulation No. 2, Rules 6, 7 and 8, p. 10. Hearings on revocations are covered by R.S. 33:1-31.

But even assuming that the hearing at the municipal level did not conform to the requirements of due process, a reversal is not indicated where, as here, the facts in issue, i.e., nonuser and failure to restore the premises, are not in dispute. Nordco, Inc. v. State, 43 N.J. Super. 277 (App.Div. 1957); Downie v. Somerdale, 44 N.J. Super. 84 (App.Div. 1957); Boots 'N Saddle v. Newark Municipal Bd., A. B. C., 44 N.J. Super. 38 (App.Div. 1957).

Nor would the absence of conformity to the requirements of due process require reversal in view of the subsequent de novo hearing accorded the appellant in the Division. Cino v. Driscoll, 130 N.J.L. 535 (Sup. Ct. 1943); Nordco, Inc. v. State, supra, p. 287. See In re Masiello, 25 N.J. 590, 600 (1958). The present appeal is from the findings and conclusions of the Director which superseded the action taken at the original hearing. Neiden Bar and Grill v. Municipal Bd., etc., of Newark, 40 N.J. Super. 24, 28-29 (App. Div. 1956); cf. Essex Co., etc., Stores Ass'n v. Newark, etc., Bev. Cont., 64 N.J. Super. 314, 324 (App.Div. 1960).

At the hearing in the Division the appellant was represented by able counsel and was afforded every opportunity to present witnesses and to examine and cross-examine. Prior to the refusal to renew she had received a copy of a letter written by the Municipal Attorney to the Township Clerk. In it he recommended against renewal for the old location unless steps were taken towards reconstructing the building and suggested deferring action on the application in view of the pendency of the Kalman transfer. At the hearing before the Director, the burden of proof was upon the appellant. Downie v. Somerdale, supra, at p. 87; Nordco, Inc. v. State, supra, at p. 287. Notwithstanding this, the record before us fails to establish either that she was prepared to carry on operations under the license at the old location, or that the denial of the transfer to the new location was unreasonable.

We note that no formal statement of reasons accompanied the governing body's denial of the application for renewal. While it would have been desirable for that body to have stated its reasons, the failure to do so did not preclude affirmance of its action by the Director or by us. Lublimer v. Bd. of Alcoholic Bev. Con., Paterson, 33 N.J. 428, 445 (1960); Downie v. Somerdale, supra, (44 N.J. Super. at p. 84). See also Fanwood v. Rocco, supra, (33 N.J. at p. 416). In any event, we find that the appellant suffered no prejudice thereby since she was well aware that the

reasons standing in the way of renewal of her license were nonuser thereof since 1954 and the fact that the licensed premises were unfit for use as a tavern. This is clear from the testimony taken in the Division. It is confirmed by our examination of the previously mentioned letter dated May 25, 1962 from the Township Attorney to the Township Clerk. A copy thereof was intended for the appellant and was admittedly received by her. In this letter it was clearly indicated that her license to operate at the old location was in "serious jeopardy" and that, in conformity with the requirements of the Alcoholic Beverage Commission [sic], renewal depended upon whether she filed an application, accompanied by a building permit, building plans and positive evidence of a bona-fide intention to construct the building on the premises. Renewal of the license for the new location was, of course, precluded by the previous denial of the transfer to Kalman. The absence of prejudice is further confirmed by the appellant's petition of appeal wherein she states that renewal was sought for the purpose of "maintaining the existence of the license under contract" (to Kalman), and in her testimony to the effect that she applied for renewal solely for the purpose of enabling her to transfer the license to Kalman.

Lastly, Mrs. Prickett asserts that justification for her nonuser of the license has been established and that it was unreasonable and arbitrary to refuse to renew in the face of the reasons given. We disagree. Assuming the validity of the reasons given, the issuing authority was confronted with a total nonuser of the license for a period of almost eight years. The test in the establishment and issuance of such licenses is whether the public good requires it. Blanck v. Mayor and Borough Council of Magnolia, 38 N.J. 484, 491 (1962). See also Tp. Committee of Lakewood Tp. v. Brandt, 38 N.J. Super. 462 (App.Div. 1955). The test here was not whether Mrs. Prickett's financial condition justified her failure to reconstruct the building which had fallen into ruin, but whether the public good justified the renewal of the license in view of her failure to exercise the privilege conferred thereby. In connection therewith it could well have concluded from the failure to use the license that the necessity for it no longer existed.

A liquor license is a temporary permit or privilege to conduct a business otherwise illegal. Mazza v. Cavicchia, 15 N.J. 498, 505 (1954). Whether it is to be renewed rests in the sound discretion of the local issuing authorities and a reviewing court should not interfere unless the evidence indicates an abuse of that discretion. 279 Club v. Mun. Bd. of Alcoh. Bev. Cont. of Newark, 73 N.J. Super. 15, 21 (App.Div. 1962). As was said in Zicherman v. Driscoll, 133 N.J.L. 586, 587 (Sup. Ct. 1946):

"The primary question presented is the right of a holder of a plenary retail consumption license to a renewal of that license for a subsequent term.

The question of a forfeiture of any property right is not involved. R.S. 33:1-26. A liquor license is a privilege. A renewal license is in the same category as an original license. There is no inherent right in a citizen to sell intoxicating liquor by retail, *** and no person is entitled as a matter of law to a liquor license. *** No licensee has vested right to the renewal of a license. Whether an original license should issue or a license be renewed rests in the sound discretion of the issuing authority. Unless there

has been a clear abuse of discretion this court should not interfere with the actions of the constituted authorities. *** The liquor business is one that must be carefully supervised and it should be conducted by reputable people in a reputable manner. The common interest of the general public should be the guide post in the issuing and renewing of licenses."

Here, the appellant has failed to sustain the burden of establishing that there has been such an abuse of discretion. Price v. Excise Board of Town of Millburn, supra, (29 N.J. Super. at p. 108). While nonuser will not, of itself, disentitle a licensee to a renewal, we are satisfied that the action of the Director sustaining the refusal of the municipal authorities to renew a license which had not been utilized for eight years was not unreasonable or arbitrary. While an owner of a license acquires through his investment an interest which is entitled to some measure of protection, Twp. Committee of Lakewood Tp. v. Brandt, supra, p. 466, and once a license is granted it is protected against arbitrary revocation, suspension or refusal to renew, see The Boss Co., Inc., etc., et al v. Board of Commissioners of the City of Atlantic City, et als, N. J. (1963), the Township Committee here appears to have acted in a manner not unfair to the appellant.

Affirmed.

2. DISCIPLINARY PROCEEDINGS - LOTTERY (NUMBERS BETS AND DRAWINGS) - HOSTESS ACTIVITY - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LUCY IANNACCONE)
t/a LU-LU'S LOUNGE)
208 Walker Street)
Cliffside Park, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-35, issued by the Mayor and Council of the Borough of Cliffside Park.)

Ferrara and Guez, Esqs., by Joseph Guez, Esq., Attorneys for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to charges alleging that (1) and (2) on January 5, 8, 18, 26, February 3 and 28, 1963, she permitted the acceptance of numbers bets on the licensed premises, and on January 5 and February 28, 1963, conducted drawings for a prize on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20, and (3) on January 5, 11, 12, 19, 26, February 2 and 3, she permitted hostess activity (barmaids) accepting drinks at the expense of male patrons, in violation of Rule 22 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for fifteen days, effective August 13, 1962, for sale of alcoholic beverages to minors.

The license will be suspended on the first and second charges for twenty-five days (Re Bolten, Bulletin 1461, Item 4), and on the third charge for twenty days (Re Blue Chateau, Inc., Bulletin 1496, Item 4), to which will be added five days for the previous dissimilar violation occurring within the past five years (cf. Re Brookside Tavern, Inc., Bulletin 1518, Item 6); making a total suspension of fifty days. Five days will be remitted for the plea entered, leaving a net suspension of forty-five days.

Accordingly, it is, on this 5th day of August 1963,

ORDERED that Plenary Retail Consumption License C-35, issued by the Mayor and Council of the Borough of Cliffside Park to Lucy Iannaccone, t/a Lu-Lu's Lounge, for premises 208 Walker Street, Cliffside Park, be and the same is hereby suspended for forty-five (45) days, commencing at 3 a.m. Monday, August 12, 1963, and terminating at 3 a.m. Thursday, September 26, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

- 3. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - SALE OFF LICENSED PREMISES - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

SALVATORE ASSISI & FILOMENO FACCONO)
t/a PHIL & SALS)
346 First Street)
Jersey City, N. J.)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Licensees, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensees plead non vult to charges alleging that on June 16, 1963, (1) between 12:30 and 12:40 p.m. they sold several bottles of alcoholic beverages for off-premises consumption, in violation of Rule 1 of State Regulation No. 38, and (2) in violation of local hours regulation, and (3) accepted the orders for and sold such beverages off their licensed premises, viz., on the public street, in violation of R.S. 33:1-2.

Licensees have a record of two previous suspensions of license: (1) by the municipal issuing authority for five days effective December 7, 1946, for a local and State "hours" violation, and (2) by the Director for ten days effective September 3, 1957, for violation of Rule 1 of State Regulation No. 38 (Re Assisi and Faccone, Bulletin 1189, Item 8). Since the first

violation occurred more than ten years ago, it will not be considered in fixing the penalty herein.

However, the prior similar violation occurring more than five but less than ten years ago considered, the license will be suspended on Charges (1) and (2) for twenty-five days (Re Grzybowski and Miesner, Bulletin 1503, Item 3), and on Charge (3) for ten days (Re Fiola, Bulletin 1445, Item 1), or a total of thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days.

Accordingly, it is, on this 31st day of July 1963,

ORDERED that Plenary Retail Consumption License C-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Salvatore Assisi & Filomeno Faccone, t/a Phil & Sals, for premises 346 First Street, Jersey City, be and the same is hereby suspended for thirty (30) days, commencing at 2 a.m. Wednesday, August 7, 1963, and terminating at 2 a.m. Friday, September 6, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

4. DISCIPLINARY PROCEEDINGS - POSSESSION OF "TIP LOTTERY" TICKETS - HINDERING INVESTIGATION - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN J. ASSELTA)
t/a THREE JAYS)
S.W. Cor. Main Road & Grant Ave.)
Vineland, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-28, issued by the City Council of the City of Vineland.)

John J. Asselta, Licensee, Pro se.
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to charges alleging that on March 28, 1962, he (1) possessed lottery tickets ("Tip Lottery") upon the licensed premises, in violation of Rule 6 of State Regulation No. 20, and (2) hindered an investigation, viz., attempted destruction of the lottery tickets, in violation of R.S. 33:1-35.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days effective April 8, 1962, for sale to minors.

The license will be suspended on Charge 1 for ten days (cf. Re Recreation Club, Bulletin 1491, Item 7), and on Charge 2 for ten days (cf. Re Miskiewicz, Bulletin 1478, Item 10), to which will be added five days for the previous dissimilar violation occurring within the past five years (cf. Re Brookside Tavern, Inc., Bulletin 1518, Item 6), making a total suspension of

twenty-five days. Five days will be remitted for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 31st day of July 1963,

ORDERED that Plenary Retail Consumption License C-28, issued by the City Council of the City of Vineland to John J. Asselta, t/a Three Jays, for premises at S.W. Cor. Main Road & Grant Avenue, Vineland, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Wednesday, August 7, 1963, and terminating at 2 a.m. Tuesday, August 27, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

5. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE BETS) - LOTTERY (NUMBERS AND BASEBALL POOL) - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ANNA SAJDIK
233 Clinton Street
Hoboken, N. J.

)
)
) CONCLUSIONS
) AND ORDER
)

Holder of Plenary Retail Consumption License C-163, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.

Edward J. Liguori, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE ACTING DIRECTOR:

Licensee pleads non vult to charges alleging that on May 23, 1963, she permitted the acceptance of horse race and numbers bets and the conduct of a baseball pool, in violation of Rules 6 and 7 of State Regulation No.20.

Absent prior record, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Cf. Re Villa Rosa, Bulletin 1466, Item 3.

Accordingly, it is, on this 31st day of July 1963,

ORDERED that Plenary Retail Consumption License C-163, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Anna Sajdik, for premises 233 Clinton Street, Hoboken, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Wednesday, August 7, 1963, and terminating at 2 a.m. Tuesday, August 27, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE TO INTOXICATED PERSON -
LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 JUNE & JOSEPH BROCHICK)
 t/a MC AFEE HOTEL)
 Main Road)
 Vernon Township)
 PO McAfee, N. J.)
)
 Holders of Plenary Retail Consumption License C-4, issued by the Township Committee of Vernon Township)

CONCLUSIONS
AND ORDER

 Licensees, by Joseph Brochick, Pro se.
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensees plead non vult to a charge alleging that on June 1, 1963, they sold to and permitted consumption of alcoholic beverages by a person actually or apparently intoxicated, in violation of Rule 1 of State Regulation No. 20.

Licensees have a previous record of suspension of license by the Director for ten days effective June 10, 1957, for playing and possessing indecent records (Re Brochick, Bulletin 1178, Item 4).

The prior dissimilar record disregarded because occurring more than five years ago, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Pregnor, Bulletin 1517, Item 8.

Accordingly, it is, on this 31st day of July 1963,

ORDERED that Plenary Retail Consumption License C-4, issued by the Township Committee of Vernon Township to June & Joseph Brochick, t/a McAfee Hotel, for premises on Main Road, Vernon Township, be and the same is hereby suspended for fifteen (15) days, commencing at 3 a.m. Wednesday, August 7, 1963, and terminating at 3 a.m. Thursday, August 22, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
Labeled - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

MARY ZEBROWSKI)
363 Boulevard)
Bayonne, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-154, issued by the Municipal)
Council of the City of Bayonne.)

Licensee, Pro se.
David S. Piltzer, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads guilty to a charge alleging that on July 8, 1963, she possessed alcoholic beverages in two bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective April 14, 1958, for an "hours" violation.

The prior record of dissimilar violation disregarded because occurring more than five years ago, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Short Hills Club, Bulletin 1516, Item 7.

Accordingly, it is, on this 5th day of August 1963,

ORDERED that Plenary Retail Consumption License C-154, issued by the Municipal Council of the City of Bayonne to Mary Zebrowski, for premises 363 Boulevard, Bayonne, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, August 12, 1963, and terminating at 2 a.m. Thursday, August 22, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ORDER TERMINATING SUSPENSION FOR BALANCE OF TERM UPON PROOF OF CORRECTION OF UNLAWFUL SITUATION.

In the Matter of Disciplinary Proceedings against)

ANTHONY J. SYLVESTRI, JR.,)
t/a PALMA ROOM)
3115 Hudson Boulevard)
North Bergen, N. J.)

Holder of Plenary Retail Consumption License C-63, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen; transferred during the pendency of these proceedings to)

ORDER

COLUMBIA ENTERPRISES, INC.,)
t/a COLUMBIA PARK CABANA CLUB)
3115 Hudson Boulevard)
North Bergen, N. J.)

Licensee, Columbia Enterprises, Inc., by Martin Shindler, President, Pro se.
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

On April 17, 1963, I entered an order suspending the license herein and any renewal thereof for the balance of their terms, commencing May 9, 1963, with leave to the licensee or any bona fide transferee of the license to file verified petition establishing correction of the then unlawful situation (undisclosed interests in the license and false statements in the license application) for lifting of the suspension on or after 3 a.m. August 7, 1963, after the license had been suspended for ninety days. Re Sylvestri, Bulletin 1513, Item 2.

It appearing from verified petition submitted by the licensee Columbia Enterprises, Inc., to whom the license was transferred effective June 10, 1963, that the unlawful situation has been corrected, I shall grant the petition requesting termination of the suspension.

Accordingly, it is, on this 5th day of August 1963,

ORDERED that the suspension heretofore imposed herein be and the same is hereby terminated, effective 3 a.m. Wednesday, August 7, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE TO NON-MEMBERS - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

SUPERIOR LODGE #215, I.B.P.O.E. of W. 150 Baldwin Street New Brunswick, N. J.)

CONCLUSIONS AND ORDER

Holder of Club License CB-5, issued by the Board of Commissioners of the City of New Brunswick.)

Licensee, by Myron Smith, Chairman House Committee, and Donald Neal, Chairman Board of Trustees, Pro se. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads guilty to (1) a charge alleging that on June 29, 1963, it sold alcoholic beverages to a non-member, in violation of Rule 8 of State Regulation No. 7, and "no defense" to (2) a charge alleging that on the same date it hindered an investigation (refusal to permit agents to question patrons), in violation of R.S. 33:1-35.

Licensee has a previous record of suspension of license by the municipal issuing authority for (1) five days effective February 1, 1943, for sale to non-members; (2) for five days effective November 4, 1945, for similar violation, and (3) for three days effective May 11, 1954, for serving women at the bar.

The prior record of similar violation disregarded because occurring more than ten years ago, and the record of dissimilar violation disregarded because occurring more than five years ago, the license will be suspended on the first charge for fifteen days (Re Pride of Camden Lodge of Elks #83, I.B.P.O.E. of W. Bulletin 1506, Item 4, and on the second charge for ten days (Re Edward J. Power, Inc., Bulletin 1487, Item 5), or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 8th day of August 1963,

ORDERED that Club License CB-5, issued by the Board of Commissioners of the City of New Brunswick to Superior Lodge #215, I.B.P.O.E. of W., for premises 150 Baldwin Street, New Brunswick, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Thursday, August 15, 1963, and terminating at 2 a.m. Wednesday, September 4, 1963.

EMERSON A. TSCHUPP ACTING DIRECTOR

10. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

JOHN JOLAS
t/a DREAMLAND BAR & GRILL
285 Mulberry Street
Newark, N. J.

)
)
) CONCLUSIONS
) AND ORDER
)

Holder of Plenary Retail Consumption License C-182, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Licensee, Pro se.
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on July 1, 1963, he possessed alcoholic beverages in three bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective February 18, 1963, for "hours" violation.

The prior record considered, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re The Arctic Corporation, Bulletin 1482, Item 14.

Accordingly, it is, on this 7th day of August 1963,

ORDERED that Plenary Retail Consumption License C-182, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to John Jolas, t/a Dreamland Bar & Grill, for premises 285 Mulberry Street, Newark, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Wednesday, August 14, 1963, and terminating at 2 a.m. Tuesday, September 3, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

