

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

BULLETIN 1428

January 11, 1962

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

BULLETIN 1428

January 11, 1962

1. STATE REGULATIONS - REGULATION NO. 34 - DEPLETION CREDITS -
REMARKS OF WILLIAM HOWE DAVIS, DIRECTOR, AT MEETING OF DISTILLERS
AND WHOLESALERS HELD AT OFFICE OF THE DIVISION ON TUESDAY,
DECEMBER 19, 1961 at 2:00 P.M.

I have informed you gentlemen by letter of the general purpose of your presence here today but, before going into more specific details, let me preface my remarks with a few statements of fact with which I think you will be in accord.

We, in New Jersey, are blessed with what I believe to be the best alcoholic beverage control laws and regulations of any state in the Union. In fact, they appear to be highly regarded in other states. While these laws and regulations were enacted and promulgated under the police power of the state in order to protect and safeguard the health, safety and morals of our citizens, they have also in many ways helped to safeguard and protect the industry itself.

It seems almost incredible that it should become necessary for me to call to your attention things which, in your own enlightened self-interest, you should already know. Among these are the obvious fact that a sound business cannot be founded or developed on violations of the law and the further fact that a healthy and stable market cannot be maintained by unlawful rebates or kickbacks from distiller to wholesaler and from wholesaler to retailer. Unlawful rebates, whether through over-depletions, cash kickbacks, free goods or other things of value, are among the greatest sources of danger to your business and, if permitted to continue, can only result in trade wars in which many must perish so that a few of the powerful may survive. The common good of all, public and industry alike (and I also include solicitors), demands observance of the alcoholic beverage laws and regulations at all levels of the industry. Your business health and wealth can only be measured by your obedience to and strict compliance with our laws and regulations. Without certain controls provided by so-called "trade practice" laws and regulations, only a comparatively few distillers and wholesalers, for the most part those with the largest pocketbooks, would survive. Now let me be more specific.

In recent months this Division has conducted an investigation of post-off "depletion credits" granted by manufacturers (principally distillers) to New Jersey wholesalers, purportedly pursuant to Rule 8 of State Regulation No. 34. The investigation, which has not yet been completed, is continuing, but, even now, a shocking pattern of widespread violations of the Rule is clearly apparent, possibly permeating the entire manufacturer-wholesaler level of the industry. This situation is so shocking and dangerous that immediate steps must be and are being taken to terminate present "hand-in-glove" unlawful practices of both manufacturers and wholesalers.

The widespread and, in most if not all cases, deliberate violations of the post-off regulation are all the more serious in view of the fact that the whole idea of "post-offs" emanated from these very levels of the industry. Indeed, the same licensees who clamored for post-offs, as a legal substitute for the illegal "under the table deals" of which they so bitterly complained, are now making a mockery of that "legal substitute" by a variety of practices. Without specifically detailing all of these practices, I shall mention only a few, including falsification of monthly reports to suppliers concerning sales, inclusion in reports for post-off months merchandise sold in non-post-off months and mere estimates of such sales. Significantly, data processing machine records, usually so reliable, were not used.

Let us look at the history of State Regulation No. 34. As originally promulgated, it provided only for 90-day prices for manufacturers and wholesalers selling directly to retailers but, because of certain practices (well known to you), amendments to the regulation were sought by the wholesalers. From time to time, these "certain practices" had been brought to the attention of my predecessors but were more specifically detailed in a letter dated March 7, 1952 addressed to then Acting Director Dorton by a representative of the wholesalers. After reviewing the general subject of "wheeling and dealing" and the efforts at self-policing through the Wine & Spirits Board of Trade, with the late Michael F. Mc Dermott as Administrator, attention was directed to the asserted fact that, "in practically every month of the year some distillers authorized their jobbers to file a promotional price reduction, which other wholesalers handling competitive lines found it necessary to meet covertly because their suppliers had not foreseen the other distillers' promotion so that the regular prices had been filed." The letter pointed out that some distillers did not choose to spend in one quarterly period all of the promotional money allocated for New Jersey through the medium of a reduction in the filed price and that there developed a technique of promotional allowances by the distillers to the wholesalers on designated items for shorter periods, generally one month. The method employed was explained as follows: "When the quarterly periods for filing of wholesale prices arrive the wholesalers are told to file the regular prices, but during the quarter when those prices should be charged the retailers under Regulations 34, distillers have informed their jobbers that they will be given a purchase allowance of so much per case on all cases of a particular item bought during a designated month. Nothing in the present regulations forbids such purchase allowances but the vice of the situation is that the wholesalers are either told expressly or understand that the purchase allowance is not to remain with the wholesaler but is to be approximately doubled by contributions from the wholesaler and the salesmen so that the retailer will be given a real incentive to purchase the particular item in preference to a competitive line."

The writer of the letter also pointed out that "With the passage of time it has become clearer to me that the wholesalers of this State, having no franchise protection, are in reality only the instrumentalities for the accomplishment by the distillers of their promotional policies, despite the fact that the distillers know they are making lawbreakers out of the wholesalers by stimulating transactions between the wholesalers and the retailers in violation of Regulations 34."

As the result of consideration of these and other related matters, State Regulation No. 34 was amended, effective April 30, 1952, to require (among other things) the filing of prices from manufacturers and wholesalers selling to wholesalers and to prohibit free goods, cash kickbacks, and other similar practices at the manufacturer and wholesaler to wholesaler level as well as at the wholesaler to retailer level and, by the inclusion of the new Rule 7a (now Rules 8, 9 and 10), to permit post-offs to wholesalers and to retailers in either the second or third month of any quarter-annual period.

On May 7, 1952, immediately following the promulgation of the amended regulation, then Acting Director Dorton addressed a meeting of manufacturers and wholesalers, in part, as follows:

"The sole purpose of Rule 7a is this: whereas formerly such a reduction in price could be accomplished only by free goods and the passage of money under the counter, such a reduction may now be accomplished openly and above-board. We have no desire to stifle competition, but it should be fair

and open competition and all retailers should be treated alike. You should be able to have a clean and orderly market if you comply with the Regulations as amended.

"It seems to me that, from a selfish standpoint, you should fully comply with the Regulations. The alternative will be a cut-throat operation in which the majority will go down and a few survive. But that, in my opinion, would be an empty victory for the survivors because the next step might well be legislation to have the State take over the wholesaling operations of the few survivors.

"Naturally, you are interested to find out if the Division will enforce the amended Regulation. We are fully cognizant of the fact that it will be difficult to find evidence of violations. However, if we do find such evidence, disciplinary proceedings will be instituted against the guilty wholesaler and the guilty retailer. Our latest step has been to send a notice by mail today to every retailer in the State advising him that he will also be held accountable if he violates the amended regulation. In this connection, there is another matter which should be called to your attention. Your licenses are renewable July first. Whether or not they should be renewed rests in the sound discretion of the Director. Strictly speaking, each of you holds an annual privilege and not a (continuing) license. Let me quote the following from a recent presentment of the Mercer County Grand Jury concerning retail licenses:

"Current procedure gives to license holders, both worthy and unworthy, a sense of security. Renewal of their licenses is a formality. The grand Jury is convinced that a greater sense of responsibility would be developed if license-holders were made aware that they are always under official scrutiny."

The same reasoning applies to licenses held by manufacturers and wholesalers. The renewal of any license should not be a mere formality. It is my opinion that the Director may refuse to renew any license on evidence which might not be sufficient to support a charge of guilt in a disciplinary proceeding. This is not a threat. Threats have been made in the past but it was impossible to carry them out. This is not a request for pledges of compliance because pledges have been made in the past and have been broken. To me Regulations No. 34 resemble a code of ethics. You can live up to the code or you can break the code. It is up to you. I merely say this: that I shall do all in my power to prevent the unscrupulous licensee from profiting by unfair competition with the scrupulous licensee who obeys the law."

In 1955, when New Jersey wholesalers expressed deep concern with respect to the overloading of their inventories as the result of certain post-off practices of the manufacturers, I caused an exhaustive study of the entire post-off picture to be made with a view to possible abrogation or amendment of that portion of the regulation which permitted post-offs (Rule 7a). High-ranking executives of many dis-

tillers and practically all New Jersey wholesalers were consulted individually and collectively. On August 12, 1955 and again on September 15, 1955, I furnished written proposals setting forth acceptable and safe methods of post-offs to all manufacturers and wholesalers doing business in this state and further suggestions were invited and received from them. On the basis of all of the information obtained during the course of our study covering nearly a year, State Regulation No. 34 was again amended, effective April 1, 1956, to provide the methods of post-offs presently found in Rules 8, 9 and 10 thereof. While there had not been complete unanimity on all aspects of the problem, the amended regulation was hailed by those affected as a helpful clarification of the then confused situation and I received assurances on all sides that the amended regulation would go a long way toward "cleaning up the market". With that background the present unlawful situation, resulting, as I have said, from deliberate and widespread violations of the amended regulation which was to have been such a boon to the industry, is cause for both extreme disappointment and concern.

The large stack of papers which I now point out to you contains documentary evidence of widespread violations. The evidence gathered to date discloses that more than a dozen wholesalers made excessive claims for depletion credits, some involving large sums of money, and that more than a dozen distillers allowed these credits. In most cases the violations were admitted by the wholesalers. Where they were not admitted, no reasonable or sensible explanation was given for the excessive claims for depletion credits. In the case of the distillers, the facts and circumstances disclosed by the investigations were such that, if the distillers did not knowingly collaborate with the wholesalers, their lack of knowledge can be attributed only to their gross laxity. Although our investigation covered the activities of wholesalers and distillers over a very short period of time, I have no doubt that a complete investigation of the activities of the depletion credit situation from April 1, 1956 (when the post-off regulation was amended) to date, would reveal a similar pattern, and that the sums involved would be stupendous.

Accordingly, I direct that

(1) Any and all illegal practices immediately be discontinued and that the market be cleaned up;

(2) You immediately give me your written assurance that you will not engage in any illegal practices;

(3) You call a meeting of your appropriate sales personnel and instruct them to refrain from furnishing any unlawful "kick-backs", cash rebates, free goods or other inducements to retailers, and further instruct them to report to me, under oath, the names and addresses of any retailer requesting "deals" together with the nature of the request and the dates and circumstances surrounding such request;

(4) You instruct your appropriate staff personnel to refrain from any unlawful practices and particularly in connection with claims for or grants of credits on post-offs; and

(5) All future records of depletions be based upon business data recording systems, where they exist, and upon other accurate and reliable records subject to inspection, where no such system exists.

Manufacturers and wholesalers are put on notice that each of them is and will be held responsible for the establishment and maintenance of the necessary procedures to assure the accuracy and reliability of depletion data.

In conclusion, I reiterate that the investigation already under way is continuing. When it has been completed, action will be taken against the guilty. The nature of such action will not be determined until the entire investigation has been completed. Continuing disregard of these admonitions will be taken into consideration at the time and dealt with accordingly.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - RONDO ET AL. v. WAYNE.

Edmund Rondo and Falls Liquors,)	
Inc., a Corporation of New)	
Jersey,)	
)	On Appeal
Appellants,)	
)	O R D E R
v.)	
Township Committee of the)	
Township of Wayne,)	
)	
Respondent.)	

Johnson & Rowinski, Esqs., by George W. Rowinski, Esq.,
Attorneys for Appellants
Peter J. Van Norde, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent, on September 19, 1961, whereby it denied an application to transfer plenary retail distribution license D-4, issued for premises at 2099 Hamburg Turnpike, Wayne, from appellant Edmund Rondo to appellant Falls Liquors, Inc.

It should be noted that appellant Edmund Rondo, the proposed transferor of the license, is neither a necessary nor a proper party to the appeal. Bartges et al. v. Atlantic City et al., Bulletin 1372, Item 1.

Prior to the date set for hearing herein, a stipulation of dismissal, signed by the attorneys for both parties, was filed with me. No reason appearing to the contrary,

It is, on this 16th day of November 1961,

ORDERED that the above appeal be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD -
 LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

Harbor Inn, Inc.)
 t/a Harbor Inn)
 720 Ashley Avenue)
 PO Box 302, Brielle, N. J.)

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption)
 License C-3, issued by the Mayor and)
 Council of the Borough of Brielle.)

Lenox, Giordano & Lenox, Esqs., by Nicholas M. Giordano, Jr.,
 Esq., Attorneys for Defendant-licensee.
 David S. Piltzer, Esq., Appearing for the Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

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

At 2:30 a.m., August 19, 1961, two ABC agents observed four apparent minors come into defendant's licensed premises and approach the bar where Robert Orror, a bartender, served two bottles of beer and two mixed drinks containing alcoholic beverages to them. The four youths then carried their respective drinks to a table in the rear of the premises and, as they began to consume their drinks, the two agents went over and identified themselves. All of the minors readily admitted being under the ages of twenty-one years, one being 18, two 19 and one 20 years of age. The bartender who had made service of the drinks to the four minors admitted the sale but refused to give a written statement to that effect.

Defendant has a previous adjudicated record. Effective December 1, 1952, defendant's license was suspended by the then Director for fifteen days for sale of alcoholic beverages to minors (Re Bulletin 949, Item 9) and effective November 11, 1957, I suspended defendant's license for twenty days for an "hours" violation (Re Bulletin 1199, Item 3). The minimum suspension for sale of alcoholic beverages to an 18-year-old minor is fifteen days (Re Freedman, Bulletin 1412, Item 9). However, in view of the number of minors involved, I shall suspend defendant's license for twenty days (Re Club 75 Corporation, Bulletin 1395, Item 4), to which will be added five days because of the dissimilar violation within the past five years (Re Club 75 Corporation, supra) and an additional five days for a prior similar violation occurring more than five years, but less than ten years ago (Re Town Hall Delicatessen, Inc., Bulletin 1187, Item 4), making a total suspension of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 15th day of November, 1961,

ORDERED that Plenary Retail Consumption License C-3, issued by the Mayor and Council of the Borough of Brielle to Harbor Inn, Inc., t/a Harbor Inn, for premises 720 Ashley Avenue, PO Box 302, Brielle, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m., Friday, November 24, 1961, and terminating at 2:00 a.m., Tuesday, December 19, 1961.

WILLIAM HOWE DAVIS
 DIRECTOR

4. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE
SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary
Proceedings against

Cameo Club, Inc.
252 S. Orange Avenue
Newark 3, N. J.

CONCLUSIONS

AND

Holder of Plenary Retail Consumption
License C-289, issued by the Municipal
Board of Alcoholic Beverage Control of
the City of Newark.

ORDER

Leon Sachs, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On September 27 and 28, 1961, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets in a lottery commonly known as the 'numbers game'; in violation of Rule 7 of State Regulation No. 20.
- "2. On September 27 and 28, 1961, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game', to be sold and offered for sale in and upon your licensed premises, and you possessed, had custody of and allowed, permitted and suffered such tickets and participation rights in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

On September 27, 1961, at about 11:45 a.m., two ABC agents entered defendant's premises to investigate a complaint alleging that gambling was permitted on the premises. Odell Brown was tending bar. During this visit, one agent placed with the bartender a bet of \$1.00 on a certain number and the other agent placed with the bartender two bets, totaling \$1.50, on another number. The agents left without disclosing their identity.

On September 28, 1961, at about 11:45 a.m., the same agents returned to the premises. Odell Brown was again tending bar. About fifteen minutes later one agent placed with the bartender two bets, totaling \$3.00, on certain numbers and the other agent placed with the bartender two bets, totaling \$2.00, on other numbers. By pre-arrangement, a third ABC agent and two detectives employed by the Newark Police Department entered and identified themselves. Seven one-dollar bills, including the five one-dollar bills given to the bartender by the agents, were found in the bartender's possession. During subsequent investigation, one horse-race bet slip and a slip of paper bearing sixteen number bets were found beneath a telephone book which was under the bar.

Defendant has a prior record. Effective June 15, 1953, its license was suspended by the local issuing authority for five days for employing an unqualified person. Moreover, it appears that Emanuel Abbate and Philip Insabella each owns one-third of the

stock of defendant corporation and that, while they and other persons held licenses for the same premises, said licenses were suspended by the local issuing authority for ten days, effective November 5, 1945, for sales to minors and employing an unqualified person, and for ten days, effective February 24, 1947, for employing an unqualified person. Since all these dissimilar violations occurred more than five years ago, they will not be considered in fixing penalty herein. Re Boczar, Bulletin 1418, Item 9. I shall suspend defendant's license for twenty-five days, the minimum suspension imposed in cases involving commercialized gambling where the licensee or his employees participate in the violation. Re Cliffwood Inn, Bulletin 1416, Item 2. The usual five days will not be remitted because the confressive plea was not entered prior to the date scheduled for the hearing and the argument of defendant's attorney does not convince me that there was sufficient excuse for the failure to enter the plea before said date. Re Walter J. Conley Lodge #1379, Bulletin 1409, Item 3.

Accordingly, it is, on this 13th day of November 1961,

ORDERED that Plenary Retail Consumption License C-289, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Cameo Club, Inc., for premises 252 S. Orange Avenue, Newark, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m., Monday, November 20, 1961 and terminating at 2:00 a.m., Friday, December 15, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against

Margaret Carino & Emil Danduono
t/a New Lido Hotel
3-5 Sea View Avenue
Long Branch, New Jersey,

CONCLUSIONS

AND

ORDER

Holders of Plenary Retail Consumption License C-59, issued by the Board of Commissioners of the City of Long Branch.

Joseph A. D'Alessio, Esq., Attorney for Defendant-licensees
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they allowed, permitted and suffered gambling, viz., the making and accepting of horse-race bets in and upon their licensed premises, in violation of Rule 7 of State Regulation No. 20.

On August 10, 1961, between the hours of 12 Noon and 4:20 p.m., ABC agents observed nine or ten persons hand sums of money to George DeLuca (hereinafter George) while he was seated at a table in the rear of the barroom. On five occasions George was called to answer a telephone in the hotel lobby, and on three occasions he went directly to the lobby when the telephone rang.

On August 16, 1961, the same agents again visited defendants' premises, and while there, observed six persons speak to George and hand him money. George left the barroom at various times and on

one occasion, while absent therefrom, an agent asked the bartender, Joseph Carino (hereinafter Joseph), if he expected George to return and was assured by Joseph that he would. At 4 p.m. George entered the barroom and, as he sat at a table in the rear, one of the agents walked over and placed several bets with him on horses scheduled to race that day. As the agents left the premises, one asked Joseph to hold any money which might be due if their horses were successful and Joseph promised to do so.

On August 30, 1961, at 1:50 p.m., the same agents entered defendants' premises and the one who had placed bets with George on August 16 mentioned to Joseph that he had money coming to him. At 2:30 p.m. George came into the barroom and, after some conversation, paid the agent the money due him. At 3:15 p.m. an agent told Joseph that he desired to place a bet, and Joseph said that George was in the lobby. The agent went into the lobby with his fellow-agent and observed George seated at a small table making notations on pieces of white paper with a racing-sheet on his lap and another racing form was on the floor nearby. One agent, in payment for a horse-race bet, gave George a five-dollar bill, whereas the other agent gave George six one-dollar bills (the serial numbers of which had been previously recorded) in payment for the horse-race bets. Shortly thereafter, by pre-arrangement, two agents and two police officers entered and when, in compliance with their request, George emptied his pockets, among other bills were found the "marked" five-dollar bill and six one-dollar bills. Various horse-race slips and paraphernalia found in the defendants' premises were seized.

Defendants have no previous adjudicated record. The minimum suspension for a gambling violation such as that under consideration, wherein a licensee or his agent in any manner participated, is twenty-five days (Re Witkowski, Bulletin 1405, Item 5). While it is true that Joseph did not actually accept bets, he agreed to hold any money won by an agent. Moreover, when George conversed with the agent and paid off the winning bet on August 30, Joseph was directly across the bar. Furthermore, when the agents expressed an intention to place bets, Joseph told them that George was in the lobby. I shall suspend defendants' license for a period of twenty-five days, less five days remission for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 13th day of November 1961,

ORDERED that plenary retail consumption license C-59, issued by the Board of Commissioners of the City of Long Branch to Margaret Carino & Emil Danduono, t/a New Lido Hotel, for premises 3-5 Sea View Avenue, Long Branch, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Thursday, November 16, 1961, and terminating at 2 a.m. Wednesday, December 6, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary
Proceedings against

Doris E. Jones
t/a Schott's Tavern
7 Monroe Street
Garfield, N. J.,

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption
License C-22, issued by the Mayor
and Council of the City of Garfield.

Defendant-licensee, Pro se

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On October 17, 24, 25 and 28, 1961, you allowed, permitted and suffered gambling in and upon your licensed premises viz., the making and accepting of bets on horse races on all of said dates and in a lottery, commonly known as the 'numbers game' on said dates of October 25 and 28, 1961; in violation of Rule 7 of State Regulation No. 20.
- "2. On October 25 and 28, 1961, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game' to be sold and offered for sale in and upon your licensed premises and on the said date of October 28, 1961, you possessed, had custody of and allowed, permitted and suffered such tickets and participation rights in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

At 11:50 a.m. on October 17, 1961, Agents B and D entered the defendant's licensed premises and observed Richard A. Jones (husband of the licensee) tending bar, and a man, afterwards identified as John Worschak, walking around the premises. Worschak answered the telephone on numerous occasions, making notations on slips of paper while in the telephone booth, and he also accepted money from several customers after conversing with them.

At 11:15 a.m. on October 24, Agents B, G and R entered the said premises and found Worschak tending bar. A telephone rang three times. Worschak answered the telephone on each occasion and was observed making notations while talking on the telephone. During this visit Agent R gave Worschak \$6 for bets on two horses which were running on that day.

At 1:25 p.m. on October 25, 1961, Agents G and R entered the subject premises and found Worschak tending bar. Two male patrons came in and handed money to Worschak, who proceeded to a telephone booth where he was observed reading his notations over the 'phone. At 2:35 p.m. Agent G gave Worschak \$6 for bets on two horses. Three patrons and one of the agents also gave him small sums of money as bets on a certain number.

On Saturday, October 28, 1961, at about 11:30 a.m., Agents G, R and S entered the subject premises and Worschak (who was tending bar) paid to one of the agents the sum of \$7, representing the amount due on a winning bet placed on the previous visit. Agents P and R then placed additional bets totaling \$11 on horses and numbers. The serial numbers of the bills used to make the bets had been previously recorded. After these bets were placed, local police officers and other ABC agents entered the tavern and the ABC agents then identified themselves.

A search of the subject premises disclosed that Worschak had in his possession the sum of \$215, including the bills given to him by the agents. A number of horse race betting and numbers slips were found on the premises. Worschak was then arrested and charged with bookmaking. Worschak refused to give a written statement but verbally admitted taking horse race and numbers bets for about a month last past.

By way of attempted mitigation the licensee has submitted a statement which I have carefully read and considered. In it she states that she and her husband were unaware of the bartender's activities, and discharged him immediately after this disclosure. She further states that numerous personal problems and difficulties made it necessary for her husband to spend considerable time away from the business. Nevertheless, a licensee is required to supervise the business properly and is responsible for the acts of his agents and employees. Rule 33 of State Regulation No. 20.

Defendant has no prior adjudicated record. I shall suspend her license for twenty-five days, the minimum suspension imposed in commercialized gambling cases when a licensee or an employee of the licensee is involved. Re Elmer, Bulletin 1406, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 21st day of November 1961,

ORDERED that plenary retail consumption license C-22, issued by the Mayor and Council of the City of Garfield to Doris E. Jones, t/a Schott's Tavern, for premises 7 Monroe Street, Garfield, be and the same is hereby suspended for twenty (20) days, commencing at 3 a.m. Tuesday, November 28, 1961, and terminating at 3 a.m. Monday, December 18, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PRIOR RECORD -
 LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

Renato Carabelli)
 t/a Carabelli's Tap Room)
 w/s Ft. Dix Rd.)
 Wrightstown, N. J.,)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption)
 License C-6, issued by the Borough)
 Council of the Borough of Wrightstown.)

ORDER

Joseph James Maiorino, Esq., Attorney for Defendant-licensee
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
 Beverage Control

BY THE DIRECTOR:

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

Acting upon information obtained from Military Police Officers attached to the Fort Dix Provost Marshal's Office, ABC agents obtained signed and sworn statements from three persons, including Anthony --- (an 18-year-old minor). In Anthony's statement he states that he is 18 years of age and that on October 16, 1961, at about 7 p.m., he and his two adult companions, all of whom were in military uniform, entered the defendant's licensed premises; that he (Anthony) purchased a glass of beer and thereafter a bottle of beer and paid for the same without being questioned as to his age by Mike DiBiase (the bartender). While consuming the second beer, military police entered the said premises, questioned Anthony and his two companions and took them to headquarters where they executed voluntary written inculpatory statements. The bartender orally admitted serving alcoholic beverages to Anthony on the above date.

Counsel for the licensee urged in mitigation that the bartender was not aware that the beverage was for the consumption of the minor but was under the impression that the beverage was for the use of the adults accompanying said minor; also that the licensee has a clear record since 1954.

I have carefully examined, read and considered the complete statement and have also carefully considered the facts as set forth in the agents' reports. I find nothing therein which would warrant the imposition of less than the usual penalty for such violation.

Defendant has a prior adjudicated record. Effective November 10, 1952, his license was suspended for five days for sales to a minor. Bulletin 948, Item 9. Effective April 20, 1954, his license was suspended for five days by the Wrightstown Borough Council for possession of contraceptives. Also, effective November 8, 1954, his license for premises on the E/s Fort Dix Road, Pemberton Township, was suspended for five days for sales to a minor. Bulletin 1039, Item 7. Since the dissimilar violation referred to occurred more than five years prior to the date hereof, it will not be considered in the imposition of

penalty. The usual penalty for sale of alcoholic beverages to an 18-year-old minor is fifteen days. Re Freedman, Bulletin 1412, Item 9. Since there are two similar violations which occurred more than five years ago but within a period of ten years from the date of this violation, there will be added an additional ten days, making a total of twenty-five days. Cf. Re Hoffman, Bulletin 1076, Item 2. Five days will be remitted for the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 15th day of November 1961,

ORDERED that plenary retail consumption license C-6, issued by the Borough Council of the Borough of Wrightstown to Renato Carabelli, t/a Carabelli's Tap Room, for premises on w/s Ft. Dix Rd., Wrightstown, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, November 28, 1961, and terminating at 2 a.m. Monday, December 18, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

8. SEIZURE - FORFEITURE PROCEEDINGS - SUPPLEMENTAL ORDER RESCINDING RETURN OF MOTOR VEHICLE AND FORFEITING SAME UPON CLAIMANT'S FAILURE TO PAY COSTS.

In the Matter of the Seizure)
on May 19, 1961 of a quantity)
of alcoholic beverages and a)
Ford sedan in a parking lot)
in the rear of 6 Kings Highway,)
in the Borough of Swedesboro,)
County of Gloucester and State)
of New Jersey.)

Case No. 10,584

SUPPLEMENTAL ORDER

Kenneth Presnell, Pro Se.

I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On September 19, 1961 an Order was entered in this case wherein, among other matters, it was directed that a Ford sedan be returned to Geneva Presnell if on or before October 2, 1961 she paid the costs of seizure and storage of the said motor vehicle.

A letter, dated August 9, 1961, enclosing a Hearer's Report therein, sent by certified mail and addressed to Kenneth Presnell, husband of Geneva Presnell, claimant herein, with whom she resided, addressed to his recent known whereabouts, Lincoln Road, Gloucester County, New Jersey, was returned marked "moved, left no address". To this date, no other address of the claimant or her husband has been received by this Division and their present whereabouts are unknown.

A letter received from Gene C. Costa, trading as Costa's Motor Sales asserted an alleged claim to the said motor vehicle which claim was rejected in the Order entered herein. However, in a subsequent letter dated September 1, 1961 the said Gene Costa advised this Division he had a letter of authorization on behalf of Kenneth Presnell. He was thereupon advised of the assessed costs of seizure and storage upon presentation of a proper power of attorney; and in a letter dated September 11, 1961, he disclaimed any intention of redeeming the said motor vehicle. To date the costs have not been paid.

Accordingly, so much of my previous Order as directs the return of the Ford sedan shall be and is hereby rescinded, and instead, it is

DETERMINED and ORDERED that the said Ford sedan, Engine Number M6CT 108475, New Jersey Registration GCR-905 be and the same is hereby forfeited in accordance with the provisions of R.S. 33:1-66 and shall be sold at public sale for the use of the State in accordance with State Regulation No. 29 or retained for the use of hospitals and state, county and municipal institutions at the direction of the Director of the Division of Alcoholic Beverage Control.

Dated: November 14, 1961

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

74 Hamilton Ave., Corp.
t/a Joy House
74 Hamilton Avenue
Paterson 1, New Jersey

CONCLUSIONS

AND

Holder of Plenary Retail Consumption
License C-231, issued by the Board of
Alcoholic Beverage Control for the
City of Paterson.

ORDER

Defendant-licensee, by August Baines, Secretary-treasurer.
Edward F. Ambrose, Esq., Appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold during prohibited hours, an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

On Sunday, October 22nd at about 2:35 p.m., an ABC agent while in defendant's licensed premises, observed Luis Mario Rivera (one of two bartenders on duty) make a sale of alcoholic beverages for off-premises consumption. At about 2:40 p.m. the bartender made a similar sale of a pint bottle of wine to the agent. The agent left the premises with the alcoholic beverages and immediately re-entered the same with another agent. The two agents identified themselves to Rivera and August Baines (secretary-treasurer of the corporate-licensee) who was summoned to the premises by Rivera.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of fifteen days, and remit five days for the plea entered herein, leaving a net suspension of ten days. Re Harris, Bulletin 1418, Item 5.

Accordingly, it is, on this 13th day of November, 1961,

ORDERED that Plenary Retail Consumption License C-231, issued by the Board of Alcoholic Beverage Control for the City of Paterson to 74 Hamilton Ave., Corp., t/a Joy House, for premises 74 Hamilton Avenue, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m., Monday, November 20, 1961, and terminating at 3:00 a.m., Thursday, November 30, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALE ON ELECTION DAY - STORAGE
ON OTHER THAN LICENSED PREMISES - PRIOR RECORD - LICENSE
SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Tekla & Theodore Dzialo)
t/a Teddy's & Tillie's Tavern)
54 Lester Street)
Wallington, N. J.,)

CONCLUSIONS

AND

ORDER

Holders of Plenary Retail Consumption)
License C-22, issued by the Mayor and)
Council of the Borough of Wallington.)

Defendant-licensees, Pro se

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

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

- "1. On Tuesday, November 7, 1961, General Election Day, while the polls were open for voting at such election, you sold and offered for sale at retail and delivered alcoholic beverages to a consumer; in violation of Rule 2 of State Regulation No. 20.
- "2. On Tuesday, November 7, 1961, you stored alcoholic beverages except at your licensed premises, viz., in an apartment on the second floor of your licensed building; contrary to and in violation of Rule 25 of State Regulation No. 20."

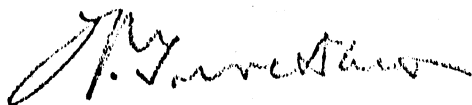
At about 4:05 p.m. on November 7, 1961, two ABC agents observed a man, who was carrying a paper bag, coming from the rear door of the building in which the licensed premises are located. After the agents stopped the man, they ascertained that the bag contained six 12-ounce cans of chilled Rheingold beer. The agents and the man then entered the rear door which leads into a vestibule having inner doors leading to the barroom and to the apartment upstairs. Knocking on a door leading from the vestibule to the barroom, they were admitted to the licensed premises by Theodore Dzialo (one of the licensees) who stated that the man had purchased the beer on the previous evening with the understanding that he would pick it up on Election Day on his way to work. Mr. Dzialo stated that he had stored the beer in his apartment on the second floor which is not part of the licensed premises.

Defendants have a prior record. Effective June 1, 1959, I suspended their license for five days for sale to a minor (Bulletin 1283, Item 6), and effective April 4, 1960, I suspended their license for ten days for possessing alcoholic beverages not truly

labeled (Bulletin 1337, Item 8). I shall suspend defendants' license for fifteen days on Charge 1 (Re Livingston Tavern, Inc., Bulletin 1402, Item 8) and, under the circumstances, for five days on Charge 2, to which will be added five days because of the prior dissimilar violations within the past five years (Re Richman, Bulletin 1186, Item 10), thus making a total suspension of twenty-five days. Five days will be remitted for the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 21st day of November 1961,

ORDERED that plenary retail consumption license C-22, issued by the Mayor and Council of the Borough of Wallington to Tekla & Theodore Dzialo, t/a Teddy's & Tillie's Tavern, for premises 54 Lester Street, Wallington, be and the same is hereby suspended for twenty (20) days, commencing at 3 a.m. Tuesday, November 28, 1961, and terminating at 3 a.m. Monday, December 18, 1961.



William Howe Davis
Director