

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

BULLETIN 1354

October 5, 1960

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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.

October 5, 1960

BULLETIN 1354

- APPELLATE DECISIONS - GRANT LUNCH CORP. v. NEWARK - SUPPLEMENTAL FINDINGS AND CONCLUSIONS PURSUANT TO REMAND FROM APPELLATE DIVISION.

GRANT LUNCH CORP.,)
Appellant,) SUPPLEMENTAL
v.) FINDINGS AND
MUNICIPAL BOARD OF ALCOHOLIC) CONCLUSIONS
BEVERAGE CONTROL OF THE CITY)
OF NEWARK,)
Respondent.)

Kasen, Schnitzer & Kasen, Esqs., by Daniel G. Kasen, Esq.,
Attorneys for Appellant.
John J. Clancy, Esq., of Counsel.
Vincent P. Torppey, Esq., by James E. Abrams, Esq., Attorney
for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Supplemental Report herein:

"There is presently pending before the Appellate Division of the Superior Court of New Jersey an appeal from the determination of the State Director of the Division of Alcoholic Beverage Control entered on April 23, 1959 affirming the action of respondent Board in finding appellant guilty in disciplinary proceedings on March 11, 1958 of violating Rule 1 of State Regulation No. 20 and suspending its license for a period of twenty days.

"On November 19, 1959 the Appellate Division of the Superior Court of New Jersey entered an Order for Remand, the first paragraph of which follows:

'1. This appeal is hereby remanded to the Division of Alcoholic Beverage Control, the Director of which is ordered to produce and make available to appellant the reports of the three investigators who testified at the hearing before said Division; appellant is granted leave to cross-examine said investigators on the basis of their reports and to offer additional testimony, relevant to the meritorious issues, on the basis of such disclosures, if any, as may be gained from the reports and the cross-examination.'

"Pursuant to said Order, the reports of Arthur Cooper, Calvin West and Paul McDermott (the investigators who testified at the hearing before the Division) were made available to appellant and a hearing was scheduled for December 16, 1959 for the purposes set forth therein. Prior to the scheduled hearing, appellant was advised that Mr. West and Mr. McDermott were no longer employees of the Division; that Mr. McDermott resided in Florida; that a subpoena would be issued by the Division and served upon Mr. West to appear at said hearing and that Investigator Cooper would be instructed to attend. At appellant's request, the hearing was postponed until January 5, 1960 and Mr. West, who had been subpoenaed

to appear at the hearing scheduled for December 16, 1959, was advised by letter of the postponement and requested to attend the postponed hearing.

"At the hearing on January 5, 1960, Investigator Cooper was sworn and answered a number of questions propounded by appellant and, it appearing that appellant was seeking to elicit testimony respecting matters which had been thoroughly expored at the hearings before the Division, I, as Hearer, ruled that the cross-examination must be pursued in accordance with the Order for Remand and I limited the scope of the cross-examination to what I conceived to be the plain meaning of that directive. Mr. West failed to appear and the hearing was adjourned to January 29, 1960, so that he could be produced. In response to a further subpoena served upon Mr. West by this Division, he appeared at the adjourned hearing, was cross-examined by appellant and, when it became apparent that appellant was again seeking to elicit testimony respecting matters heretofore explored, I ruled as I had ruled previously and limited the cross-examination. At the conclusion of the hearing appellant offered the reports of the three investigators which were marked in evidence.

"At both hearings appellant challenged the correctness of my ruling and intimated that an application would be made to the Superior Court to ascertain if the Court was in agreement therewith and, if need be, to have the Order modified.

"On February 3, 1960 appellant was advised that a hearing would be scheduled for February 15 or February 19, 1960, 'so that the record may more specifically reflect the procedural steps requisite to an early and expeditious termination of this matter', and at appellant's request, the hearing was set down for February 18, 1960. On February 8, 1960, appellant was advised by letter that at the hearing 'you may within the limits of my ruling respecting the Order for Remand, complete your cross-examination of Calvin West, and since Paul McDermott is not amenable to subpoena, you may state for the record wherein his testimony differs from his report.'

"The attorneys for the respective parties herein were present at the final hearing, as they had been at the previous hearings. Mr. West and Investigator Cooper also attended and appellant was given an opportunity to cross-examine both men in accordance with my previous ruling, or to state for the record the inconsistencies, if any, which were found from an examination of their reports and their oral testimony elicited at the prior hearings before the Division. Appellant declined to do either, stating that an application would be made to the Superior Court for the purposes heretofore indicated and further to have the Court direct the Division to produce Mr. McDermott for cross-examination. The hearing was concluded and at appellant's request, two weeks were allowed in which to submit a memorandum.

"It appears that appellant then moved before the Appellate Division of the Superior Court for an Order to have the Director produce former Investigator McDermott for examination and to permit appellant to continue to cross-examine the three investigators for the purpose of affecting their credibility, and that the Court having considered appellant's moving papers and the reply statement of the Director, and having heard the arguments of the attorneys for the parties on the appeal to the Appellate Division of the Superior Court, denied appellant's motion on March 16, 1960.

"It is apparent that no additional testimony was offered by appellant relevant to the meritorious issue based on any disclosures gained from the reports and the cross-examination. I have reviewed

the testimony of the investigators and read their reports and I find no inconsistencies which could in any way alter the findings set forth in my original report. Disregarding the testimony of McDermott, the testimony of West and Cooper respecting Bannon's slovenly appearance, bloodshot eyes, incoherent speech, profanity and unsteadiness on his feet, evidence the fact that the man was apparently, if not actually, intoxicated and, also, that while in that condition, he was served alcoholic beverages by the bartender. It has been clearly established, therefore, that appellant was guilty of violating Rule 1 of State Regulation No. 20.

"I recommend, therefore, that the determination of the Director entered on April 23, 1959 remain undisturbed."

Written exceptions to the Supplemental Hearer's Report and written argument in substantiation thereof were filed with me within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the transcript of the testimony and exhibits, the Supplemental Hearer's Report and the exceptions and argument with respect thereto, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

WILLIAM HOWE DAVIS
DIRECTOR

Dated: August 2, 1960

DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AS A NUISANCE - SALE TO MINOR - LICENSE SUSPENDED FOR 70 DAYS.

In the Matter of Disciplinary Proceedings against)

REDMAN'S CLUB CAFE, INC.)
31-33 Main Street)
Orange, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-66 (for the 1959-60 and 1960-61 licensing years), issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange.)

Colalillo and Goldner, Esqs., by Sam E. Goldner, Esq., Attorneys for Defendant-licensee.

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

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charges:

- 1. On September 18, 19, 26, 27, 30 and October 2, 1959 you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered thereon, males impersonating females, who appeared to be homosexuals; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.

2. On October 2, 1959, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Victor ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.'

"To substantiate the charges, the Division called as its witnesses Victor --- (the alleged minor) and two ABC agents who participated in the investigation of defendant's licensed business. Victor --- was called for the sole purpose of establishing his age and testified that on the dates alleged he was 20 years old.

"Succinctly stated, the agents' testimony shows that they visited defendant's licensed premises during the late evening hours on September 18, 26 and 30 and October 2, 1959; that on their first visit they remained on the premises until the early morning of September 19; that on each occasion Louis Hershman, 96-2/3 per cent shareholder of the corporate-licensee, was present; that on September 18, 26 and 30 Ralph Brown and a man known as Cordell tended bar; that on October 2nd the bartenders were Ralph Brown and Eugene Fogle; that about 120 male and 3 female patrons were present on September 18th, 95 males and 6 females on September 26th, 45 males and 3 females on September 30th and 65 males on October 2nd; that on each of the aforesaid dates they observed that 90 to 95 per cent of the male patrons appeared to be female impersonators; that the majority of those were attired in bulky-knit sweaters with sleeves pushed up to the elbows, multi-colored shirts, tight Chino pants, loafers or sneaker shoes; that all of them walked on the balls of their feet, swished their hips, spoke in high-pitched, lispy voices; gesticulated with the limp wrist movement and delicately touched the faces, arms and ears of one another; that some of them had tweezed or penciled eyebrows, wore facial makeup and had long wavy hair fluffed on top and that they addressed one another as 'Honey' and 'Doll'. The agents' testimony further shows that on one occasion a male patron seated at the bar kissed another male patron on the cheek and gave up his stool to him when he entered the premises; that on another occasion two of three male patrons, noting the presence of two alleged male classmates, ducked under the bar, one of them saying, 'I don't want them to see me in here'; that when the third said, 'Oh, you don't have to worry about them, they are gay too', the two resumed upright positions and one said, 'I always wondered about them but now we know, don't we'; that on still another occasion one of the agents, referring to a male patron, asked another male patron how that female got in here and received the response, 'Can we be sure it is a female?' and that when the agents informed a male patron with whom they were conversing that they were leaving but would be back, the patron said, 'Oh, I'll be here. I go where all the kids go'.

"The agents' testimony further shows that on September 30th one of them asked the bartender, Brown, 'How's chances of getting a --- job from one of these fags here', and that Brown replied, 'I don't know anything about that. I haven't been working here that long', and that when the agent remarked that the place is really loaded with queers but that they don't bother with anyone, Brown said, 'Right, they don't bother with anyone'; that on October 2, 1959 when one of the agents asked Hershman if he ever thought of selling the tavern, he replied, 'Why should I sell, business is good', and informed him that he owned the place for 19 years; that when the agent asked him, 'Have the fags been here that long', he became flustered and said, 'Fags, no fags in here'; that the agents then asked Hershman to look around the place, which he did, and stated, 'There are no fags in here', and then inquired, 'Who the hell are

you asking so many questions', to which the agent replied, 'I am a nosy customer with good eyes'.

"The agents further testified that on their last visit, they observed Victor ---, an apparent minor, and two other males enter defendant's premises and that after Victor presented a car for Brown's inspection, he was served two highballs, one by Brown and the other by Fogle; that shortly thereafter, they identified themselves to Victor --- and, ascertaining that he was in fact 20 years of age, seized the remaining portion of the drink in front of him and an altered Selective Service Identification Card which Victor --- stated he had presented to Brown. The card and the liquid were received in evidence, together with the Division chemist's report attesting that the liquid seized is an alcoholic beverage.

"The agents' testimony further shows that thereafter, they identified themselves to the licensee and the bartenders and that when they explained what they had observed, the licensee said, 'I know what you mean'; that when he was asked how long it had been going on he replied, 'Oh, about six or eight months' and then said, 'But they always behave themselves. I never had any trouble in here'; that Brown was then asked how long such characters had been coming into the tavern and he replied, 'They've been coming in here as long as I worked here and that was since last March', and that when questioned as to why he thought they might be fags he said, 'Because they are like a bunch of girls. Sometimes I hear one speak and I turn around to look for a girl and I see one of these clowns'.

"The cross-examination in the main sought to effect the agents' credibility by attempting to establish that the physical obstructions in the licensed premises would have prevented them from making the observations or hearing the conversations to which they testified.

"Witnesses appearing on behalf of the corporate-licensee were Louis Hershman (majority stockholder), Eugene Fogle and Ralph Brown (bartenders), Fred Foster (a retired telephone engineer) and Joseph Goward and John Murray (patrons).

"Hershman testified in substance that he has been owner or part owner of the licensed business since 1941, during all of which time he has spent from 6 to 16 hours each day on the licensed premises; that he never received any complaints from neighbors; that he never saw anyone in his establishment who appeared to be a homosexual or who acted in an effeminate manner and that he was found guilty of but one violation which occurred in 1945. He testified further that it would be impossible for the agents to have made the observations they had testified to and sought to show by photographs and a sketch of the premises, which were received in evidence, that the obstructions in the barroom would have prevented them from so doing.

"Fogle testified that he has been a part-time bartender in defendant's licensed premises for approximately six months; that the place is well run; that he was tending bar when the agents last visited the premises and that he never saw therein any patron who appeared to be a homosexual.

"Brown testified that he has been a part-time bartender in the licensed premises for approximately one year; that he tended bar on the dates alleged in the charge and that none of the patrons appeared to be a homosexual. He denied the statements attributed to him by the agents and admitted that he served an alcoholic beverage to Victor --- after inspecting an identification card which indicated that the holder was over 21 years of age.

"Foster testified that he prepared the sketch of the licensed premises and deduced therefrom that it would be impossible for the agents to have made the observations to which they testified. He further testified that he has been a patron of defendant's tavern for 18 years and that he never saw anyone on the premises who appeared to be a homosexual.

"Goward and Murray testified that they have been patrons of the licensed premises for 15 and 5 years, respectively, and that they never saw anything unusual therein.

"Having carefully considered the testimony herein, the exhibits and the memorandum submitted by defendant's attorney, I cannot agree with defendant's contention that because of the physical obstructions in the licensed premises, it would have been impossible for the agents to have made the observations and to have heard the conversations to which they testified. While it may be conceded that a casual observer might not envision the actions and attire of 90 or even 45 patrons, it does not follow that ABC agents, assigned to investigate a specific complaint that males impersonating females were permitted to congregate on licensed premises could not accomplish their objective. It is their practice in such cases to mingle with and scrutinize the patrons, to note their attire, speech, mannerisms and conversation and to submit to their superiors a detailed written report of what they observed and heard. The testimony of the agents in the instant case shows that their modus operandi was in accord with accepted practices and, notwithstanding the exhaustive cross-examination to which they were subjected, their account of what they saw and heard remained unshaken, and evidences the fact that defendant's place of business was conducted in a manner offensive to common decency and public morals. Although the evidence is insufficient to establish that 90 to 95 per cent of the male patrons were in fact homosexuals, it clearly establishes that they appeared to be such personalities. As Judge Jayne said in Paddock Bar, Inc., 46 N. J. Super, 405:

'If the evidence here failed adequately to prove that the described patrons were in fact homosexuals, it certainly proved that they had the conspicuous guise, demeanor, carriage, and appearance of such personalities. It is often in the plumage that we identify the bird. The psychiatrist constructs his deductive conclusions largely upon the ostensible personality behavior and unnatural mannerisms of the patient.'

'Anent Charge (1), it is deemed pertinent to restate the principles annunciated by the Director in Re Rutgers Cocktail Bar, A Corp., Bulletin 1133, Item 2, wherein he said:

'Proper liquor control, bearing in mind that our primary responsibility is to protect the public welfare, dictates that the congregating of female impersonators or homosexuals in large numbers on licensed premises be staunchly prohibited. The situation disclosed by the record in this case constitutes a nuisance and, as such, is a clear violation of Rule 5 of State Regulation No. 20 as alleged in the charge. To permit such persons to gather and congregate in large numbers on licensed premises is itself detrimental to the public welfare and tends to encourage them to carry on their unnatural practices. In addition, innocent members of the public frequenting such premises, by being exposed to these conditions, may well be adversely affected.'

"Respecting Charge 2, it is admitted that Victor --- consumed alcoholic beverages which were served to him in and upon defendant's licensed premises by two bartenders, after one of them had examined a Selective Service Identification Card indicating that the holder thereof was over 21 years of age. Victor's testimony that on the date alleged he was 20 years old is legally sufficient to establish his age (State v. Andoloro, 108 N.J.L. 47). The only defense provided by the Alcoholic Beverage Law in the case of sale or service of an alcoholic beverage to a minor or consumption of an alcoholic beverage by a minor on licensed premises is that wherein all the following facts affirmatively appear: (a) that the minor falsely represented himself in writing to be of age, (b) that the minor's appearance was such that an ordinary prudent person would believe him to be of age, and (c) that the sale was made in reliance upon such written representation and appearance and in the reasonable belief that the minor was of age. See R.S. 33:1-77; Re Butera, Bulletin 606, Item 4; Re Roey, Bulletin 747, Item 3 (certiorari denied by N. J. Sup. Ct. in Roey v. Hock, reprinted in Bulletin 758, Item 2). Hence, it is not a defense that mere verbal inquiry may have been made as to the age of the minor or that the minor had verbally misrepresented his age or that the minor had displayed some document (such as a driver's license, birth certificate or a Selective Service Identification Card) which represented his age as over 21. The representation in writing required by the Alcoholic Beverage Law is a writing made by the minor at the time of sale or service. See Re Macchiaverna, Bulletin 782, Item 8; Bryla v. Newark, Bulletin 1136, Item 2; Re Sudzina & Pingicer, Bulletin 1138, Item 5; Re Schwartz, Bulletin 1235, Item 1.

"In view of the aforesaid, I conclude that the Division has established the truth of both charges by the necessary preponderance of the believable evidence and I recommend that defendant be found guilty of the violations set forth therein. Since defendant's prior violation occurred more than ten years ago, it should not be considered in fixing the penalty herein. I therefore further recommend that defendant's license be suspended for sixty days on Charge 1 (Re Rutgers Cocktail Bar, A Corp., supra) and for ten days on Charge 2 (Re Danny's Hide-A-Way, Inc., Bulletin 1329, Item 6), making a total suspension of seventy days."

Written exceptions to the Hearer's Report and written argument in substantiation thereof were filed with me by defendant's attorneys within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the record herein, including the transcript of the testimony, the exhibits, the memorandum of defendant's attorneys, the Hearer's Report and the exceptions and argument with respect thereto, I concur in the Hearer's findings and conclusion and adopt his recommendations.

Accordingly, it is, on this 28th day of July 1960,

ORDERED that Plenary Retail Consumption license C-66, for the 1960-61 licensing year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange to Redman's Club Cafe, Inc., for premises 31-33 Main Street, Orange, be and the same is hereby suspended for seventy (70) days, commencing at 2:00 a.m., Thursday, August 4, 1960, and terminating at 2:00 a.m., Thursday, October 13, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

3. "EASY CHARGE" PLAN - RESTRICTIONS AS TO USE OF.

July 29, 1960

Allenhurst National Bank & Trust Co.
Allenhurst, N. J.

Att: J. Levinos, Manager

Gentlemen:

This acknowledges your letter of July 27, 1960 supplementing your letter of July 15, 1960 in connection with your "Easy Charge" plan which you conduct in Monmouth, Middlesex and Ocean Counties. As we understand the plan, retail stores may become members of the plan upon the payment of an initial fee of \$25.00. Thereafter, customers making purchases at a member store may charge such purchases through the plan and all sales tickets are discounted at the following rates;

1. 5% for thirty (30) day charges and twelve (12) month revolving budgets.
2. 6% for ninety (90) day charge accounts.

You state that these charges are paid by the member merchant. Apparently the retail customer pays no fee for this service.

You have stated that a holder of a plenary retail distribution license uses the charge plan in the sale of alcoholic beverages by the package and have asked whether this plan can be advertised through any media by a liquor licensee.

The primary question, of course, is whether a retail liquor licensee may join the plan and sell alcoholic beverages in original containers for off-premises consumption (package goods) on credit through the plan.

At the present time there is nothing in the Alcoholic Beverage Law or in the regulations of this Division which prohibits such sales of alcoholic beverages by retail licensees on credit. However, various municipalities in New Jersey have adopted local regulations on the subject either prohibiting all sales of alcoholic beverages on credit or restricting such sales in various ways. Hence, as we stated in our letter of July 25th in reply to your letter of July 15th, you should communicate with the municipal clerks of the various municipalities where prospective members are located to determine whether or not there is a local regulation which might prohibit or restrict sales of alcoholic beverages on credit.

The fact that the retailer pays an initial charge for membership in the plan and thereafter pays certain charges at the rates hereinabove set forth does not constitute prohibited profit-sharing nor create any prohibited interest by the bank in the licensed business, since it merely relieves the retailer of the cost of his own billing and collection service if he engages in credit-selling through the plan.

However, as with any other credit selling, all licensees are cautioned that, in the event they engage in the practice of selling on credit through the plan or otherwise, it may not be advertised in any way except by dignified sign on the interior of the licensed premises not visible from the exterior.

There is one other matter. Under State Regulation No. 30 no retail licensee may sell or offer for sale any alcoholic beverage, the price of which has been filed with the Director, at less than its filed price. Consequently, the retail customer must pay not less than the filed price for each item of alcoholic beverage purchased.

The Director, while granting permission for the operation of your "Easy Charge" plan, nevertheless reserves the full right to modify or revoke the permission herein granted should experience or proper control require the same.

Very truly yours,

WILLIAM HOWE DAVIS
DIRECTOR

By: Anthony Meyer, Jr.
Assistant to Director.

4. SEIZURE - FORFEITURE PROCEEDINGS - UNLICENSED TRANSPORTATION OF ALCOHOLIC BEVERAGES IN TRACTOR AND TRAILER - TRACTOR, TRAILER AND FURNITURE THEREIN RETURNED TO INNOCENT OWNER UPON APPLICATION IN ADVANCE OF STATUTORY HEARING.

No. 10,360)	
In the Matter of the seizure on)	APPLICATION FOR
July 22, 1960 of a quantity of)	RETURN OF SEIZED
alcoholic beverages, a tractor and)	PROPERTY IN ADVANCE
trailer, in the vicinity of 192 West)	OF STATUTORY HEARING
52nd Street, in the City of Bayonne,)	
County of Hudson and State of New)	CONCLUSIONS
Jersey.)	AND ORDER

Santini Bros., Inc., by Frank E. Toscani, Traffic Manager.

BY THE DIRECTOR:

Application has been made pursuant to Rule 1 of State Regulation No. 28 for the return of the tractor and trailer and furniture therein seized in the case in advance of statutory hearing.

It is represented that Santini Bros., Inc., the owners of the above tractor and trailer are wholly innocent of any unlawful transportation of alcoholic beverages for which the equipment was seized, and that the unavailability of such equipment while detained subjects the transportation company to a substantial daily financial loss, and inability to deliver the furniture creates a hardship to the innocent owners thereof.

From the deposition of Frank E. Toscani, it appears that the transportation company has been in business since 1905 and that it is authorized to transport used furniture and uncrated machinery; that Frank Manfredi, the driver of the equipment, who transported wine therein has been employed by the concern at least since 1931 and was the only driver in charge of such equipment since it was purchased; that Santini was unaware that he was transporting alcoholic beverages in the equipment and, in fact, such transportation was in direct violation of its instructions to its various drivers on January 6, 1958, and presented a document signed by Manfredi which reads in part:

"It is, therefore, understood that no driver is permitted to at any time haul wines, liquor, olive oil, oranges or other miscellaneous cargo in a Santini Bros.' van. The hauling of such

cargo is in direct violation of the I.C.C., P.S.C. and Company regulations, and any driver violating these regulations of necessity must assume full responsibility should they be found carrying illegal cargo on their van. Therefore, in order to set the record straight, we request that you sign the statement below and return same to me personally."

This document evidences the problem presented by acts of its drivers for their individual benefit and Santini's efforts to control and prevent such activities. It further appears that Mr. Toscani has been acquainted with Manfredi for about thirty-five years and that Manfredi is considered one of the best employees of the concern and that his integrity and honesty insofar as his employer is concerned has never been questioned.

With reference to Manfredi's trip with the equipment during which he transported wine, Santini has presented various documents which establish, by day to day records, that Manfredi left New York on June 26, 1960 with a cargo to be delivered in Los Angeles. During the trip he traversed southern and western states, arrived in Los Angeles July 5th, remained there until July 10th and then started on his return trip East in the course of which he picked up three loads of furniture to be delivered in New York State. Mr. Toscani asserts that to his knowledge, this is the first instance in which any of its equipment was seized for violation of any liquor laws.

I am satisfied from the evidence presented that Santini Bros., Inc. did not know or have any reason to suspect that Manfredi transported wine in this equipment. I shall, therefore, return the tractor, trailer and furniture to Santini Bros., Inc. upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 1st day of August, 1960, Santini Bros., Inc. pays the costs incurred in the seizure and storage of the tractor, trailer and furniture, such furniture, tractor and trailer will be returned to it.

WILLIAM HOWE DAVIS
DIRECTOR

Dated: July 26, 1960.

SCHEDULE "A"

- 355 - gallon jugs of wine
- 12 - 4/5 gallon jugs of rum
- 18 - 4/5 quart bottles of whiskey
- 24 - 4/5 quart bottles of wine
- Household articles.
- 1 - 1957 white tractor bearing NY Plates
#171726
- 1 - 1957 Trailmobile bearing 1960 NY
Plates #10318

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
 LABELED - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS
 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)
 CHARLES DeFRANCE)
 t/a NuCLIFF INN)
 211 Darling Avenue)
 Nutley, N. J.)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption)
 License C-24, issued by the Board of)
 Commissioners of the Town of Nutley.)

 Defendant-licensee, Pro se.
 William F. Wood, Esq., Appearing for the Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

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

On June 1, 1960, an ABC agent tested defendant's open bottles of alcoholic beverages and seized a number of bottles for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of one quart bottle labeled "Seagram's Seven Crown American Blended Whiskey 86 Proof" varied substantially in solids from the contents of a genuine sample of the labeled brand.

Defendant has a prior adjudicated record. Effective April 22, 1952, when the license was held by the defendant and Angelina DeFrance, such license was suspended by the local issuing authority for ten days for sale to a minor. This dissimilar violation will not be considered in fixing penalty because it occurred more than five years ago. Re Oliveri, Bulletin 1329, Item 4. Effective May 3, 1959, when the license was held by defendant individually, his license was suspended by the local issuing authority for five days for sale to a minor. I shall suspend defendant's license for ten days, the minimum penalty in cases involving one bottle (Re Zicaro, Bulletin 1343, Item 8), to which five days will be added because of the prior dissimilar violation which occurred within a five-year period (Re Alexis & Alexopoulos, Bulletin 1343, Item 5), making a total suspension of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 1st day of August, 1960,

ORDERED that Plenary Retail Consumption License C-24, issued by the Board of Commissioners of the Town of Nutley to Charles DeFrance, t/a NuCliff Inn, for premises 211 Darling Avenue, Nutley, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, August 8, 1960 and terminating at 2:00 a.m., Thursday, August 18, 1960.

WILLIAM HOWE DAVIS
 DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SUSPENSION TEMPORARILY LIFTED.

In the Matter of Disciplinary Proceedings against)

CELTIC BAR, INC.)
559 Jackson Avenue)
Jersey City, N. J.)

ON PETITION ORDER

Holder of Plenary Retail Consumption License C-332 (for the 1959-60 and 1960-61 licensing years), issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

An order having been entered on July 20, 1960, suspending defendant's license for thirty days commencing at 2 a.m. Monday, August 1, 1960, and terminating at 2 a.m. Wednesday, August 31, 1960; and

It appearing from the petition filed herein by Richard W. Sheehan, president of Celtic Bar, Inc., that prior to the entry of said order arrangements had been completed for the use of defendant's premises for a wedding reception on Saturday, August 6, 1960, and another wedding reception on Saturday, August 13, 1960; and it appearing that numerous persons would be inconvenienced by the suspension of defendant's license on said dates;

It is, on this 3rd day of August 1960,

ORDERED that the thirty-day suspension now in effect be lifted from 2 a.m. Saturday, August 6, 1960, to 2 a.m. Sunday, August 7, 1960, and from 2 a.m. Saturday, August 13, 1960, to 2 a.m. Sunday, August 14, 1960, and that said suspension shall thereafter remain in effect until 2 a.m. Friday, September 2, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

By: Edward J. Dorton,
Deputy Director

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

In the Matter of Disciplinary Proceedings against)	
)	
LAFAYETTE GRILL, INC.)	CONCLUSIONS
t/a LAFAYETTE GRILL)	AND ORDER
428 East 18th Street)	
Paterson 4, N. J.)	
Holder of Plenary Retail Consumption License C-84, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)	

 Defendant-licensee, by Lee D. Page, Président.
 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, June 19, 1960 at about 1:32 p.m., an ABC agent at defendant's licensed premises purchased a pint bottle of whiskey from Lee D. Page, acting as bartender. The agent left the premises with the bottle and immediately re-entered with another agent. Both agents identified themselves to Page who verbally admitted the violation.

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 Janulis, Bulletin 1346, Item 10.

Accordingly, it is, on this 8th day of August 1960,

ORDERED that Plenary Retail Consumption License C-84 issued by the Board of Alcoholic Beverage Control for the City of Paterson to Lafayette Grill, Inc., t/a Lafayette Grill, for premises 428 East 18th Street, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m., Monday, August 15, 1960 and terminating at 3:00 a.m., Thursday, August 25, 1960.

WILLIAM HOWE DAVIS
 DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

CHARLES MELE)
t/a SKIP'S BAR & GRILL)
W/side of Route #35, about 500')
south of 18th Avenue)
Wall Township, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Township Committee of Wall Township.)

Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded guilty to the following charge:

"On June 9, 1960, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons actually or apparently intoxicated and allowed, permitted and suffered the consumption of such beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

On June 9, 1960, at about 10:10 a.m., two ABC agents entered the defendant's licensed premises and observed two male patrons who appeared intoxicated. Shortly after their arrival, the agents observed one of the males (hair disheveled and blood-shot eyes half closed) walk with an unsteady gait from the pool table to the bar and consume what appeared to be an alcoholic beverage. The second male (hair and clothes mussed), after swaying about the pool table for a few minutes, staggered to the bar and likewise consumed what appeared to be an alcoholic beverage. Both males spoke incoherently and argued in loud voices with each other. Thereafter, one of these men was observed staggering to another position at the bar where he boisterously engaged in an argument with two patrons and then staggered to and from the men's room.

Despite the condition of the two men in question, the bartender served a drink of whiskey to one of them and sold a quart bottle of wine to the other.

Defendant has no prior adjudicated record. I shall suspend his license for the minimum period of twenty days. Re Storch, Bulletin 1303, Item 7; Re The Player's Club, Bulletin 1331, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 8th day of August 1960,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of Wall Township to Charles Mele, t/a Skip's Bar & Grill, for premises on W/side of Route #35, about 500' south of 18th Avenue, Wall Township, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m., Monday, August 15, 1960 and terminating at 3:00 a.m., Tuesday, August 30, 1960.

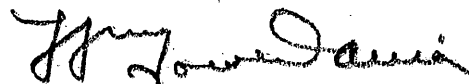
WILLIAM HOWE DAVIS
DIRECTOR

confronted the defendant with the violation. The defendant verbally admitted the violation.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty-five days on Charges 1 and 2, the minimum suspension where a licensee or employee is involved (Re Tomczy & Stolarz, Bulletin 1327, Item 7) and an additional minimum suspension of fifteen days on Charge 3 (Re City Gardens, Inc., Bulletin 1337, Item 10), making a total suspension of forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 9th day of August 1960,

ORDERED that Plenary Retail Consumption License C-132, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Michael J. Milat, for premises 800 Washington Street, Hoboken, be and the same is hereby suspended for thirty-five (35) days, commencing at 2 a.m. Wednesday, August 17, 1960, and terminating at 2 a.m. Wednesday, September 21, 1960.



William Howe Davis
Director