

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

November 20, 1958.

BULLETIN 1248

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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.

November 20, 1958

BULLETIN 1248

1. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JULIUS FINE & ANDREW G. WEILER
t/a FINE & WEILER
119-121 Brighton Avenue
Kearny, N. J.,)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-10, issued by the Mayor and Town Council of the Town of Kearny.)

Defendant-licensees, by Andrew G. Weiler, Partner.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

"1. On July 25 and 29, 1958, you engaged in and allowed, permitted and suffered gambling, viz., the making and accepting of bets in a lottery, commonly known as the 'numbers game', in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.

"2. On July 25 and 29, 1958, 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; in violation of Rule 6 of State Regulation No. 20.

"3. On July 25, 1958 at about 10:20 p.m. and 10:50 p.m., on July 26, 1958 at about 12:10 a.m., and on July 29, 1958 at about 10:40 p.m. and 10:45 p.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, at retail, in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of such beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

The file herein discloses that, on the dates set forth in Charges 1 and 2, Andrew G. Weiler, while acting as bartender, accepted "numbers" bets from an ABC agent or patrons on the licensed premises. On July 29, 1958, through arrangement with the local police authorities, police officers accompanied ABC agents to the premises and found a number slip and a dollar-bill (which had been marked by the agents) in Weiler's possession.

The file further discloses that on July 25, 1958, between 10:20 p.m. and 12:10 a.m. the following morning, Weiler made four sales of alcoholic beverages for off-premises consumption -- three of them to patrons and one of them to an ABC agent. On July 29, 1958, at about 10:40 p.m., Weiler sold

six cans of Rheingold beer for off-premises consumption to an agent of this Division and, at about 10:45 p.m., he sold another six cans of beer for off-premises consumption to a patron. Weiler orally admitted aforesaid illegal sales to the agents and further stated that for the past six months he had been accepting "numbers" bets for a bookmaker.

By way of mitigation of penalty the defendant has submitted a statement which I have carefully examined together with the file in the case and the reports of the agents. However, I do not find any extenuating circumstances in this case which would impel me to impose less than the established penalties in cases of this kind.

Defendants have no prior adjudicated record. I shall suspend defendants' license for twenty-five days, the minimum suspension for gambling (numbers) here involved (Re Rosman, Bulletin 1204, Item 2), to which will be added fifteen days for the "hours" violation (Re Vaffeus, Bulletin 1239, Item 4), 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 24th day of September, 1958,

ORDERED that Plenary Retail Consumption License C-10, issued by the Mayor and Town Council of the Town of Kearny to Julius Fine & Andrew G. Weiler, t/a Fine & Weiler, for premises 119-121 Brighton Avenue, Kearny, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. October 6, 1958, and terminating at 2:00 a.m. November 10, 1958.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - GAMBLING - POSSESSING OBSCENE MATTER ON LICENSED PREMISES - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
JOSEPH M. COSMANIC and)
JOHN G. COSMANIC)
96 River Street)
Hoboken, N. J.,)

CONCLUSIONS AND ORDER

-----)
Holders of Plenary Retail Consumption License C-47, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.)

Peter Daghlian, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

"1. On June 19, 24 and July 1, 1958, you engaged in and allowed, permitted and suffered gambling, viz., the making and accepting of bets on horse races, in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.

"2. On July 1, 1958, you allowed, permitted and suffered, in and upon your licensed premises, and had in your possession obscene, indecent, filthy, lewd, lascivious and disgusting matter in form of two rubber-like representations of male persons known as 'Squirt with Skirt'; in violation of Rule 17 of State Regulation No. 20."

The file herein discloses that on the morning of June 19, 1958, an ABC agent, who was in defendants' premises, placed with John G. Cosmanic a four-dollar bet on a horse running at Monmouth Park. On the morning of June 24, 1958, this agent returned to the premises, collected from John G. Cosmanic the amount he had won on the previous bet and placed with him a five-dollar bet on a horse. On July 1, 1958, this agent, who then had marked money in his possession, entered the premises at about 11:20 a.m. After he had placed with John G. Cosmanic a four-dollar bet on a horse, other ABC agents and members of the Hoboken Police Department entered and identified themselves. The marked money and a number of bet slips were found in the possession of the aforesaid licensee and he was arrested. The licensee then claimed he had been turning the bets over to "Bennie", a bookmaker, and that he received no compensation from the bookmaker. During subsequent investigation of the premises the obscene objections mentioned in Charge 2 were found on a shelf in the rear room of the licensed premises. In mitigation the attorney for defendants alleges that these objects belonged to a patron and were not displayed on the premises.

When the license was held by Joseph M. Cosmanic, the local issuing authority suspended said license for three days, effective August 12, 1942, for permitting a lottery. However, since this violation occurred more than ten years ago, it will not be considered in fixing penalty herein. Re Wally's Inc., Bulletin 931, Item 9. I shall suspend defendants' license for twenty-five days on Charge 1 (Re Jassogne, Bulletin 1226, Item 5) and for an additional ten days on Charge 2 (Re Mayo, Bulletin 1104, Item 9). These suspensions are the minimum imposed in similar cases. Five days will be remitted for the plea, leaving a net suspension of thirty days.

Accordingly, it is, on this 24th day of September, 1958,

ORDERED that Plenary Retail Consumption License C-47, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Joseph M. Cosmanic and John G. Cosmanic, for premises 96 River Street, Hoboken, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. October 6, 1958, and terminating at 2:00 a.m. November 5, 1958.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - FALSE ANSWER
IN APPLICATION RE PRIOR SUSPENSION - LICENSE SUSPENDED FOR
35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOSEPHINE MITCHELL)
t/a MITCHELL'S TAVERN)
600 Berlin Road)
Pine Hill, PO Clementon, N.J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-2 (for the 1957-58 and 1958-59 licensing years), issued by the Borough Council of the Borough of Pine Hill.)
-----)

Cahill and Wilinski, Esqs., by William T. Cahill, Esq.,
Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that (1) she sold, served and delivered alcoholic beverages to a minor and permitted the consumption of such beverages by said minor in and upon her licensed premises, in violation of Rule 1 of State Regulation No. 20, and (2) she denied in her current license application that her license had been previously suspended, in violation of R. S. 33:1-25.

The file herein discloses that on June 14, 1958, ABC agents who were in defendant's licensed premises observed an apparent minor as he consumed two glasses of beer served to him at the bar by Rocco Mitchell (son of the licensee); that the agents identified themselves and ascertained that the apparent minor was Joseph ---, age 19; that Rocco Mitchell admitted that he served the minor without requiring any proof of his age; that the licensee said that Joseph had previously signed an affidavit that he was 21 years of age, and that Joseph denied the licensee's assertion. The file further discloses that the agents inspected the copy of the current license application on the premises and noted that the licensee had stated therein, contrary to the fact, that her license had not been previously suspended.

Defendant has a prior adjudicated record. Effective October 26, 1954 her license was suspended for ten days by the local issuing authority for sale of alcoholic beverages to minors. The penalty imposed for an unaggravated sale of alcoholic beverages to a 19-year-old minor when a similar type violation had occurred within a five-year period, is twenty-five days, Re Peek, Bulletin 1145, Item 8, and the penalty imposed for making a false statement in a license application is ten days, Re Mazza, Bulletin 1190, Item 6. I shall suspend defendant's license for thirty-five days and remit five days for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 22nd day of September, 1958,

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Pine Hill to Josephine Mitchell, t/a Mitchell's Tavern, for premises at

600 Berlin Road, Pine Hill, be and the same is hereby suspended for thirty (30) days, commencing at 3:00 a.m. September 29, 1958, and terminating at 3:00 a.m. October 29, 1958.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT LANGUAGE AND CONDUCT) - PRIOR WARNING AS TO TYPE OF ENTERTAINMENT - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

SEABAY INN, INC.)
t/a MURPHY'S SEABAY INN)
Highway #35 & Deauville Drive)
Deauville Beach, Brick Township)
PO Normandy Beach, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-3 (for the 1957-58 and 1958-59 licensing years), issued by the Township Committee of Brick Township.)

Stewart and Leventhal, Esqs., by Samuel Leventhal, Esq.,
Attorneys for Defendant-licensee.

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On June 14, 15, 21 and 22, 1958, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises in that persons employed on your licensed premises and patrons and customers thereon performed in a lewd, indecent and immoral manner, sang songs and uttered words and phrases and made gestures and movements having lewd, lascivious, indecent, filthy, disgusting and suggestive import and meaning; in violation of Rule 5 of State Regulation No. 20."

The file herein discloses that late in the evening of June 14 and the early morning hours of June 15, 1958, two ABC agents at defendant's licensed premises observed Harold Murphy (the president of the corporate licensee, who was acting as a sort of master of ceremonies) announce that they were going to have a hula dance. Thereupon a number of women and two men, one at a time, proceeded to dance on the bar, in a more or less amateurish fashion, what they considered to be a hula dance. During this dance Harold made a few "wise cracks." One woman went behind the bar, did a hula dance during which she came close behind the bartender and indulged in vulgar motions. One woman also kissed a male patron.

On another visit in the late evening of June 21 and early morning hours of June 22, 1958, three ABC agents heard Harold sing several off-color and double-entendre songs and a number of the patrons, one after the other, performed a hula

dance. A male patron did a "bumps and grind" dance of a sort. At the conclusion of the dance three women leaned over the bar and kissed the bartender. During the course of the evening Harold again engaged in a few "wise cracks." Some couples were also embracing and kissing.

On June 22 the agents disclosed their identities and informed Harold they considered he was permitting indecent performances, songs and remarks on the premises. He stated "that it was all in fun and he did not see anything wrong in having women dance on the bar." The agents found on the back bar of the licensed premises notebooks and loose papers with material for jokes and songs, some innocuous and others with a minor degree of sexual import or vulgar connotations. The agents report that on both occasions a police officer in uniform was on duty checking minors.

The songs, dances and jokes were in bad taste, unseemly and bordering on the immoral, although they had no serious sexual import. As I stated in Przbylowski & Johnson, Bulletin 1238, Item 4, whatever may be said about such conduct in other surroundings even if deemed not extremely saturated with revolting filth, dirtiness and obscenity, nevertheless it has no place on licensed premises.

It is to be noted that on September 10, 1956, the Director notified the corporate licensee in writing that Harold cavorted about behind the bar in burlesque style and conducted an auction of intimate feminine apparel in what was termed "off-color" entertainment. However, the licensee was advised that it was being warned against continuing such conduct because it was the first instance thereof and the available evidence was not of sufficiently definite nature which, under the Division's policy, required formal disciplinary proceedings.

It appears that on September 17, 1956, the defendant's license was suspended because Harold had concealed his true extent of interest in the corporate license because of judgments against him and that such suspension was lifted effective October 7, 1956, upon correction of the unlawful situation. Re Seabay Inn, Inc., Bulletin 1134, Item 2; Bulletin 1139, Item 6.

Under all the circumstances in the case, including the alleged mitigating circumstances urged on defendant's behalf, I shall suspend defendant's license for a period of thirty days for the instant violation (Re Przbylowski & Johnson, supra; cf. Re Wonder Bar, Inc., Bulletin 1165, Item 3), to which five days will be added for the previous dissimilar violation within the past five years, making a total suspension of thirty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 6th day of October, 1958,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of Brick Township to Seabay Inn, Inc., t/a Murphy's Seabay Inn, for premises at Highway #35 & Deauville Drive, Deauville Beach, Brick Township, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. October 14, 1958, and terminating at 2:00 a.m. November 13, 1958.

WILLIAM HOWE DAVIS
Director.

NOTE: By order dated October 9, 1958, the effective dates for the above suspension were changed to commence at 2:00 a.m. November 2, 1958 and to terminate at 2:00 a.m. December 2, 1958.

5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JAY'S BAR & GRILL, INC.)
t/a JAY'S BAR & GRILL)
101 Jackson Avenue)
Jersey City 5, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-326, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

Defendant-licensee, by James LeFante, President.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold alcoholic beverages in their original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that on Tuesday, August 19, 1958, at about 8:25 a.m., an ABC agent purchased at defendant's licensed premises a pint-bottle of Carstairs White Seal Whiskey which the bartender placed in a paper bag and accepted payment therefor. The agent left the premises and exhibited the whiskey to two other agents who remained outside. The agents did not disclose their identity.

On August 22, 1958, at about 8:15 a.m., the first mentioned agent entered defendant's premises and purchased another pint of the same whiskey from the same bartender who repeated his previous procedure. The agent left the premises, exhibited his purchase to his two fellow-agents and all three agents then entered the premises and revealed their identity to the bartender. Thereupon the bartender verbally admitted that he made the prohibited sale. The Regulation in question prohibits the sale of alcoholic beverages in original containers for off-premises consumption before 9:00 a.m. on weekdays.

Defendant has a previous record. Effective June 7, 1957, his license was suspended for ten days by the Director for a similar "hours" violation. Re Jay's Bar & Grill, Inc., Bulletin 1150, Item 9. The minimum penalty of fifteen days for the violation as charged will be doubled because of the similar violation which occurred within a five-year period. I shall suspend defendant's license for thirty days. Re Sada, Bulletin 1217, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 23rd day of September, 1958,

ORDERED that Plenary Retail Consumption License C-326, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Jay's Bar & Grill, Inc., t/a Jay's Bar & Grill, for premises 101 Jackson Avenue, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. October 6, 1958, and terminating at 2:00 a.m. October 31, 1958.

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)

JOHN and MARY SOPOLIGO)
t/a LUCKY'S TAVERN)
278 Dayton Street)
Newark, N. J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-341, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

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

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

"1. On July 12, 15 and 17, 1958, you engaged in and allowed, permitted and suffered gambling, viz., the making and accepting of bets in a lottery, commonly known as the 'numbers game', in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.

"2. On July 12, 15 and 17, 1958, 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; in violation of Rule 6 of State Regulation No. 20."

The file herein discloses that on the dates set forth in the charges, John Sopoligo (hereinafter referred to as John), one of the licensees, accepted "numbers" bets from an ABC agent or from patrons on the licensed premises. On each occasion John, in turn, gave the bets he had accepted to another person. At 1:25 p.m. on July 17, 1958 the said person, after receiving the agent's bet from John, was stopped by another agent after leaving the licensed premises. Through prearrangement with the local police, an officer in the immediate vicinity requested the person in question to empty his pockets. A paper containing a list of numbers and the dollar bill (whose serial number had been previously recorded) given by the agent to John were produced. The agents and the officer then entered the premises and confronted John with the violation.

Defendants have no prior adjudicated record. The minimum penalty imposed for the violation charged herein is twenty-five days. Re Romano, Bulletin 1236, Item 10. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 18th day of September, 1958,

ORDERED that Plenary Retail Consumption License C-341, issued by the Municipal Board of Alcoholic Beverage Control to John and Mary Sopoligo, t/a Lucky's Tavern, for premises 278 Dayton Street, Newark, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. September 25, 1958, and terminating at 2:00 a.m. October 15, 1958.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE
SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against

WALTER J. DEPTULA and
MARIE A. DEPTULA
t/a BROWN DERBY
W/S State Highway No. 9
Howell Township
PO RFD 4, Freehold, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-10 for the 1957-58 and 1958-59 licensing years, issued by the Township Committee of the Township of Howell.

Edward A. Costigan, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendants pleaded not guilty to a charge alleging that they sold, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20.

"At the hearing herein the Division called as its witnesses four minors and an ABC agent. The minors will be referred to hereinbelow as Calvin, John, William and Alfred.

"Calvin testified that on the dates alleged in the charge he was 17 years of age; that at about 11:30 p.m., May 3, 1958, he and the aforesaid three other minors drove to defendants' licensed premises in front of which they parked their car; that he alone entered the premises and ordered seven quart cartons of beer from the bartender; that the bartender requested identification and, when shown a 1957 Florida driver's license altered to indicate that the bearer was over 21 years of age, the bartender filled the cartons, put them in a paper bag and accepted \$3.50 in payment; that he carried the beer to the car and that he and his companions drove to 'pretty close to the Robin Hood' where they consumed the beverage. Calvin testified further that at about 1:30 a.m. the following morning he and his companions again drove to defendants' licensed premises; that he alone entered and ordered eight cartons of beer; that the aforesaid bartender stated 'I already checked you for identification'; that while the cartons were being filled, he went outside to get a cigarette from his companions; that as he was leaving the bartender said 'Watch the kids out in the car'; that he related to his companions the bartender's warning and returned to the tavern; that the bartender put the eight cartons of beer in the bag and accepted \$4.00 in payment; that he carried the bag to the car and that he and the others 'drove away and drank it'.

"The testimony of the three other minors corroborated that of Calvin in all respects other than what occurred in and upon the licensed premises.

"The ABC agent testified that on May 6, 1958 William and Alfred directed him and another agent to defendants'

licensed premises and pointed it out as the tavern in front of which they had, on the two occasions, parked their car and from which Calvin emerged carrying the cartons of beer; that on May 7, 1958 Calvin and John directed him and the other agent to the same tavern and identified it as the place wherein the beer was obtained; that therein, both licensees and their son Robert being present, he asked Calvin 'if there is anyone present here that served you' and that Calvin said 'I am not sure'; that after the licensees' son had stated that on the dates alleged he was the only one tending bar, Calvin said 'It's him that sold it to me'.

"The defendants called as their witnesses Robert Deptula, Walter Deptula (one of the licensees), a detective and two patrons of the licensed establishment.

"Robert Deptula testified that on weekends he acts as part-time bartender for his parents; that he sold about 30 quart containers of beer over the weekend covering the dates alleged, but no more than six containers to a customer; that the paper bags used in defendants' business would not hold any more than three containers and that the first time he ever saw Calvin was on the day that the minor visited the tavern with the ABC agent, at which time Calvin was asked by the agent 'Can you identify this man?', and the minor replied 'I can't swear to it'.

"Walter Deptula testified that he has been in the tavern business for about nine months; that the bags used by him in his business would not hold seven or eight containers of beer; that 'If I get an order for four I use two smaller bags, if I get an order for six I usually do -- I have a couple of boxes laying around from potato chips -- line up in that'. He did not deny having seen Calvin on the premises, stating 'I would have been (present) on the first visit as they claim but not on the second'.

"The detective testified that at 9:50 a.m. May 5, 1958, he took a statement from Calvin with respect to an offense other than that charged herein. The statement, which was received in evidence, discloses that Calvin at first stated that he obtained three or four containers of beer at the Robin Hood Inn, but that later in the same statement he stated 'I might as well tell you the truth, I bought it at the Brown Derby bar'.

"The two patrons testified they were in defendants' tavern on the dates and at the times alleged and that during their stay they did not see Calvin in or upon the licensed premises.

"Considering all the facts and circumstances herein, I find that the Division has established its case by more than a fair preponderance of the believable evidence and I recommend that an order be entered adjudging defendants guilty of the charge preferred herein. Since defendants have no prior adjudicated record, I recommend further that the penalty of twenty days usually imposed for an unaggravated sale to a 17-year-old minor, Re Weaver, Bulletin 1231, Item 2, be increased by five days because of the amount of alcoholic beverages sold to the minor herein, making a total suspension of twenty-five days. Re Farron, Bulletin 1142, Item 2."

No exceptions were taken to the Hearer's Report within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the facts and circumstances herein, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 22nd day of September, 1958,

ORDERED that Plenary Retail Consumption License C-10 (for the 1958-59 licensing year), issued by the Township Committee of the Township of Howell to Walter J. Deptula and Marie A. Deptula, t/a Brown Derby, for premises on W/S State Highway No. 9, Howell Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. September 29, 1958, and terminating at 2:00 a.m. October 24, 1958.

WILLIAM HOWE DAVIS
Director.

8. STATE BEVERAGE DISTRIBUTOR'S LICENSE - PETITION TO REMOVE RESTRICTIONS PREVIOUSLY IMPOSED ON LICENSE, DENIED.

In the Matter of Objections to a)
Petition to Remove a Restriction)
on State Beverage Distributor's)
License No. SBD-4 held by)

CONCLUSIONS

CEIL VAN VLIET)
t/a VAN THE SODA MAN)
1288 Van Houten Avenue)
Clifton, N. J.)

Leo J. Berg, Esq., Attorney for the Applicant.

Fred J. Friend, Esq., Attorney for the Clifton Board of Education.

Harry Wilson, for the Objector, Passaic Retail Liquor Association.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The records of this Division disclose that in 1952 applicant applied to this Division for the transfer of a state beverage distributor's license. Written objections having been filed, a hearing was held thereon and, during the hearing, applicant agreed to accept said transfer subject to the special conditions that 'no deliveries of alcoholic beverages shall be made directly to customers at the licensed premises, and that the licensee shall not erect or maintain any exterior signs on or in front of the licensed premises advertising the sale of alcoholic beverages'. The present petition requests that the Director rescind the restriction with reference to the sale of alcoholic beverages to customers at the licensed premises. Written objections to the present petition having been filed, a hearing was held thereon.

"Among the objectors to said rescission of the restriction in question were retail liquor licensees who operated establishments in the municipality where petitioner has her place of business. Furthermore, the attorney for the Board of Education of the municipality appeared and voiced objections to the rescission of the restriction now under consideration.

"The liquor dealers testified, among other things, that they were opposed to the lifting of the said restriction because of traffic conditions which might ensue at or near the site of petitioner's place of business and also for economic reasons.

The attorney for the Board of Education opposed the lifting of the restriction because of the close proximity to a school in the neighborhood to which a large addition is presently being made.

"Written communications were received from the three members of the Municipal Board of Alcoholic Beverage Control, one of whom was of the opinion that the restriction should be removed whereas the two remaining members thought, because of the licensed premises being in close proximity to the school, the restriction in question should be retained. A communication dated June 3, 1958 from the City Clerk of the City of Clifton stated that the matter in question was discussed by the governing body and the members thereof felt that, if the Board of Education had no objection, they would not be disposed to enter an objection either.

"The petitioner did not testify at the hearing herein. Ira Van Vliet, husband of petitioner, testified that the condition constituted a hardship on the petitioner because customers who called at the licensed premises for soda might possibly want a case of beer at the same time; that for seven and one-half months of each year, beginning on October 1st and ending on May 15th, the hours during which petitioner operated were between 12:00 noon and 7:00 p.m., and for the remaining months of the year the business was open from nine in the morning until eight in the evening; that during the time between May 15th and October 1st the school was not in session for a period of ten weeks and that 85 per cent of the business was done after 4:00 p.m. Ira Van Vliet further testified on cross-examination that during the time that school is in session an average of fifty children per day pass directly in front of the premises for which the license has been issued.

"Admittedly, the applicant's premises are in close proximity to the school. The conditions originally imposed and accepted by the applicant are reasonable under the circumstances of this case.

"I have examined the evidence adduced herein and am of the opinion that the petitioner herein has not shown sufficient cause to substantiate a rescission of the restriction presently in her license. I therefore recommend that the special condition remain as heretofore."

No exceptions to the Hearer's Report were filed with me in this matter.

After careful consideration of the entire record herein, I concur in the Hearer's findings and adopt the Hearer's recommendation. I shall, therefore, deny the petition filed by applicant for removal of restrictions heretofore imposed in her license.

WILLIAM HOWE DAVIS
Director.

Dated: September 22, 1958.

9.

ACTIVITY REPORT FOR OCTOBER 1958

ARRESTS:

Total number of persons arrested - - - - -		21
Licensees and employees - - - - -	11	
Bootleggers - - - - -	10	

SEIZURES:

Motor vehicles - cars - - - - -		4
Stills - over 50 gallons - - - - -		2
- 50 gallons or under - - - - -		1
Mash - gallons - - - - -		1,050.00
Distilled alcoholic beverages - gallons - - - - -		110.51
Wine - gallons - - - - -		4.00
Brewed malt alcoholic beverages - gallons - - - - -		13.12

RETAIL LICENSEES:

Premises inspected - - - - -		645
Premises where alcoholic beverages were gauged - - - - -		733
Bottles gauged - - - - -		12,042
Premises where violations were found - - - - -		50
Violations found - - - - -		70
Reg. #38 sign not posted - - - - -	15	Other mercantile business - - - - - 5
Application copy not available - - - - -	15	Improper beer taps - - - - - 3
Unqualified employees - - - - -	7	Disposal permit necessary - - - - - 3
Prohibited signs - - - - -	5	Other violations - - - - - 17

STATE LICENSEES:

Premises inspected - - - - -		30
License applications investigated - - - - -		2

COMPLAINTS:

Complaints assigned for investigation - - - - -		354
Investigations completed - - - - -		385
Investigations pending - - - - -		141

LABORATORY:

Analyses made - - - - -		172
Refills from licensed premises - bottles - - - - -		8
Bottles from unlicensed premises - - - - -		47

IDENTIFICATION:

Criminal fingerprint identifications made - - - - -		17
Persons fingerprinted for non-criminal purposes - - - - -		199
Identification contacts made with other enforcement agencies - - - - -		136
Motor vehicle identifications via N. J. State Police teletype - - - - -		3

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - -		24
Violations involved - - - - -		34
Sale during prohibited hours - - - - -	15	Sale to non-members by club-licensee 1
Sale to minors - - - - -	6	Sale to intoxicated person - - - - - 1
Failure to close premises during prohibited hours - - - - -	3	Failure to have copy of license application on premises - - - - - 1
Permitting hostesses on premises - - - - -	2	Unqualified employees - - - - - 1
Sale outside scope of license - - - - -	1	Employment w/o permit (local reg.) - 1
Possessing chilled beer (DL licensee) - - - - -	1	Employing female bartender (") - - 1
Cases instituted at Division - - - - -		29
Violations involved - - - - -		48
Sale to minors - - - - -	9	Fraud and front - - - - - 2
Sale during prohibited hours - - - - -	5	Sale to intoxicated person - - - - - 1
Permitting immoral activity on premises - - - - -	5	Permitting consumption on distribution licensed premises - - - - - 1
Permitting lottery activity (numbers, flight pool, baseball pool) on prem. - - - - -	3	Permitting open container on distribution lic. premises - - - - - 1
Failure to close premises during prohibited hours - - - - -	2	Sale below minimum resale price - - 1
Permitting foul language on premises - - - - -	2	Delivery without bona fide invoice - 1
Sale outside scope of license - - - - -	2	Soliciting house to house - - - - - 1
Permitting bookmaking on premises - - - - -	2	Possessing indecent matter - - - - - 1
Conducting business as a nuisance - - - - -	2	Permitting hostesses on premises - - 1
Failure to have copy of license application on premises - - - - -	2	Substituting drink other than ordered - - - - - 1
Possessing liquor not truly labeled - - - - -	2	Service to women at bar (local reg.) 1
Cases brought by municipalities on own initiative and reported to Division - - - - -		15
Violations involved - - - - -		16
Sale to minors - - - - -	7	
Permitting brawl on premises - - - - -	5	
Conducting business as a nuisance - - - - -	2	
Failure to close premises during prohibited hours - - - - -		1
Failure to afford view into premises during prohibited hours - - - - -		1

HEARINGS HELD AT DIVISION:

Total number of hearings held - - - - -		55
Appeals - - - - -	5	Seizures - - - - - 5
Disciplinary proceedings - - - - -	37	Tax revocations - - - - - 1
Eligibility - - - - -	5	Applications for license - - - - - 2

STATE LICENSES AND PERMITS ISSUED:

Total number issued - - - - -		1,892
Licenses - - - - -	3	Wine permits - - - - - 650
Employment permits - - - - -	183	Miscellaneous permits - - - - - 134
Solicitors' " - - - - -	54	Transit insignia - - - - - 279
Disposal " - - - - -	76	Transit certificates - - - - - 22
Social affair " - - - - -	491	

10. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JAMES W. HIGGINS and HELEN M. HIGGINS)
t/a HIGGINS LIQUOR STORE)
594 Pennsylvania Avenue)
Elizabeth, N. J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Distribution License D-30, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth.)

Saul C. Schutzman, Esq., Attorney for Defendant-licensees.
David S. Piltzer, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded guilty to a charge alleging that on July 23, 1958, they sold an alcoholic beverage at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulation No. 30.

The file herein discloses that on the date alleged in the charge an ABC agent purchased from James W. Higgins (one of the licensees) a quart of Schenley Reserve Whiskey for \$5.50. The minimum resale price then in effect for the item in question was \$5.90. The agent left with his purchase and returned immediately accompanied by another agent. Both agents identified themselves and informed Higgins of the violation. He replied, "I may have made a mistake on your sale". When questioned as to why he didn't ring up the sale on his cash register, he refused further comment until he had discussed the matter with his attorney.

Defendants have no prior adjudicated record. I shall suspend their license for the minimum period of ten days and remit five days for the plea entered herein, leaving a net suspension of five days. Re Pennsy Wine & Liquor Co., Bulletin 1239, Item 9.

Accordingly, it is, on this 22nd day of September, 1958,

ORDERED that Plenary Retail Distribution License D-30, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth to James W. Higgins and Helen M. Higgins, t/a Higgins Liquor Store, for premises 594 Pennsylvania Avenue, Elizabeth, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. September 29, 1958 and terminating at 9:00 a.m. October 4, 1958.

WILLIAM HOWE DAVIS
Director.

11. DISCIPLINARY PROCEEDINGS - HOSTESSES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ANTONIO MONIELLO & FRANK ONNEN)
602 Paterson Plank Road)
Union City, N. J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-216, issued by the Board of Commissioners of the City of Union City.)

Defendant-licensees, by Frank Onnen, Partner.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charge:

"On June 8, 14, 20, 21 and 24, 1958, you allowed, permitted and suffered females employed on your licensed premises to accept beverages at the expense of and as a gift from customers and patrons; in violation of Rule 22 of State Regulation No. 20."

The file herein discloses that on the dates set forth in the charge herein, ABC agents observed a female entertainer accept drinks from and at the expense of various patrons in defendants' licensed premises. On June 24, 1958, the female entertainer who was observed accepting drinks from patrons on the previous occasions and another female entertainer accepted drinks from and at the expense of one of the agents. The agents seized the drinks of the two female entertainers and made known their identities to James Moniello, the manager of the establishment. He admitted that the females accepted drinks from and at the expense of patrons.

Defendants have no prior adjudicated record. I shall suspend defendants' license for a period of twenty days. Re Young, Bulletin 1040, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 29th day of September, 1958,

ORDERED that Plenary Retail Consumption License C-216, issued by the Board of Commissioners of the City of Union City to Antonio Moniello & Frank Onnen, for premises 602 Paterson Plank Road, Union City, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. October 6, 1958, and terminating at 3:00 a.m. October 21, 1958.

WILLIAM HOWE DAVIS
Director.

12. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against)

KELLER'S TAVERN AND GROVE, INC.)
94 Camptown Road)
Berkeley Heights, N. J.,)

ON PETITION
O R D E R

Holder of Plenary Retail Consumption License C-2 (for the 1957-58 and 1958-59 licensing periods), issued by the Township Committee of Berkeley Heights.)

Edward A. Costigan, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

An order having been entered on September 17, 1958 suspending defendant's license for twenty-five days commencing at 2:00 a.m. September 29, 1958, and terminating at 2:00 a.m. October 24, 1958; and

Application having been made to postpone the effective date of said suspension because, prior to entry of said order, arrangements had been made for four banquets or picnics to be held at defendant's premises between October 4 and 12; and good cause appearing for granting the application,

It is, on this 22nd day of September, 1958,

ORDERED that the suspension of twenty-five days, instead of commencing on September 29, shall commence at 2:00 a. m. October 13, 1958, and terminate at 2:00 a.m. November 7, 1958.

WILLIAM HOWE DAVIS
DIRECTOR

13. STATE LICENSES - NEW APPLICATIONS FILED.

Allstate Liquor Distributors
51 East Bigelow Street
Newark, New Jersey

Application filed November 17, 1958
for person-to-person, place-to-place
transfer of Plenary Wholesale License W-60
from Jack Stempler, t/a Allstate Liquor
Distributors, 49 Bigelow Street, Newark,
New Jersey to Allstate Liquor Distributors,
51 Bigelow Street, Newark, New Jersey

David C. Krumm
t/a Krumm's Winery
Rear of 563 Central Avenue
Linwood, New Jersey

Application filed November 19, 1958
for Limited Winery License.


William Howe Davis
Director

New Jersey State Library