

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

BULLETIN 1160

APRIL 11, 1957.

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Newark) - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
2. DISCIPLINARY PROCEEDINGS (Hoboken) - SALE TO MINORS - OBSCENE PICTURES - LICENSE SUSPENDED FOR 25 DAYS.
3. DISCIPLINARY PROCEEDINGS (Asbury Park) - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS - PREMISES CLOSED - FURTHER ORDER TO BE ENTERED UPON REOPENING.
4. DISCIPLINARY PROCEEDINGS (Atlantic City) - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Paterson) - SALE DURING PROHIBITED HOURS IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Ridgewood) - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Burlington) - STATE BEVERAGE DISTRIBUTOR - SALE TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Irvington) - SALE OF BEER AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Paterson) - FRONT - SUSPENSION FOR BALANCE OF TERM LIFTED UPON CORRECTION OF UNLAWFUL SITUATION.
10. DISCIPLINARY PROCEEDINGS (Camden) - CLUB LICENSE - SALE TO NON-MEMBERS - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
11. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY - STOCK OF ALCOHOLIC BEVERAGES AND FURNITURE AND EQUIPMENT ORDERED FORFEITED - VARIOUS ARTICLES RETURNED TO INNOCENT OWNERS.
12. STATUTORY AUTOMATIC SUSPENSION (Weymouth Township) - LICENSE PREVIOUSLY SUSPENDED BY DIRECTOR - APPLICATION TO LIFT GRANTED.
13. STATE LICENSES - NEW APPLICATIONS FILED.

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

BULLETIN 1160

APRIL 11, 1957.

1. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED
IN MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD -
LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

ELEANOR BLOCK BOROW, ADMINISTRATRIX)
OF THE ESTATE OF HARRY BLOCK,)
DECEASED and ALVIN I. MEYERS,)
INDIVIDUAL)
66 Pacific Street)
Newark 5, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution)
License D-150, issued by the Municipal)
Board of Alcoholic Beverage Control of)
the City of Newark.)

Harkavy and Lieb, Esqs., Attorneys for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they sold alcoholic beverages at less than the price listed in the Minimum Resale Price List then in effect, in violation of Rule 5 of State Regulation No. 30.

On December 3, 1956 the licensees sold twenty bottles of alcoholic beverages of various brands as listed in the charge to Herbert Gill for the total price of \$87.17, whereas the Minimum Resale Price then in effect for each of the bottles came to a total of \$96.86. The alcoholic beverages were delivered to the purchaser who gave the deliveryman a check for \$96.86 and received from said deliveryman an envelope containing \$9.69. This method was followed in an attempt to avoid detection of the violation. The above facts are set forth in the sworn signed statements of Alvin I. Meyers (one of the licensees) and the purchaser.

Defendants have a prior adjudicated record. Effective April 26, 1948 and September 24, 1951, their license was suspended for five days and fifteen days, respectively, by this Division for violations similar to the charge herein. The minimum penalty for a violation as charged is ten days. Re Bregman, Bulletin 1128, Item 12. However, since the two similar violations occurred more than five years and less than ten years ago, I shall suspend defendants' license for thirty days, less five days' remission for the plea entered herein, leaving a net suspension of twenty-five days. Re Gorman's Liquor Stores, Inc., Bulletin 1122, Item 4.

Accordingly, it is, on this 14th day of February, 1957,

ORDERED that Plenary Retail Distribution License D-150, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark and held by Eleanor Block Borow, Administratrix of the Estate of Harry Block, Deceased and Alvin I. Meyers, Individual, 66 Pacific Street, Newark, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 9:00 a.m. February 25, 1957, and terminating at 9:00 a.m. March 22, 1957.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - OBSCENE PICTURES - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against
 JIM V. PRIMITERRA
 T/a CHARLIE'S 122 CLUB
 122 Adams Street
 Hoboken, N. J.,
 Holder of Plenary Retail Consumption License C-163, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.

CONCLUSIONS AND ORDER

 Joseph P. Hanrahan, Esq., Attorney for Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The following charges were preferred against defendant herein:

1. He permitted the sale, service and delivery of alcoholic beverages to a minor, and the consumption of such beverages by said minor in and upon his licensed premises, in violation of Rule 1 of State Regulation No. 20.

2. He allowed, permitted and suffered obscene pictures in and upon his licensed premises, in violation of Rule 17 of State Regulation No. 20.

Defendant pleaded not guilty as to Charge 1 and non vult as to Charge 2.

After a hearing held upon Charge 1, the Hearer filed a report recommending that defendant be found guilty of the violations set forth in said charge and that the license be suspended for a period of twenty-five days. No exceptions were filed to said report within the time limited by Rule 6 of State Regulation No. 16.

I have carefully examined the testimony and the Hearer's Report and adopt the conclusions set forth in said report, with certain minor exceptions.

The undisputed facts adduced at the hearing herein disclose that at about 12:15 a.m. Sunday, September 23, 1956, ABC agents, while conducting an investigation of defendant's licensed premises, observed therein an apparent minor consuming one of two glasses of beer ordered by an adult female patron. The glasses of beer were placed on the bar in front of the adult by the barmaid who, by her own admission, did not know what happened to them. The agents, being informed by the youth that he was Harry --- (age 19), identified themselves and seized the remaining portion of his drink for evidential purposes.

The disputed facts pertain to the means by which Harry obtained the beverage. The agents testified that the female who ordered the two drinks handed one of them to Harry. Harry

and the female patron testified that the glasses of beer were on the bar and that one of the agents handed one to each of them.

Considerable testimony was elicited pertaining to alleged voluntary statements made by Harry and the aforesaid female (which were received in evidence) and respecting the circumstances surrounding their taking. It is deemed unnecessary to discuss at length the competency of such evidence since the essential facts have otherwise been adequately established, except to state that it clearly appears, and is not denied by those who gave written statements, that they were entirely voluntary and not made under any duress or compulsion. The attempt of the female patron and minor to change their versions of the incident by their testimony to the effect that one of the agents handed a beer to the minor is hardly credible in view of their failure to make such charge immediately following the violation when ample opportunity was given them to do so.

A violation of Rule 1 of State Regulation No. 20 results when a minor consumes the alcoholic beverage, since that Rule provides that no licensee shall "allow, permit or suffer" the service or delivery of alcoholic beverages, directly or indirectly, to any minor on the licensed premises or the consumption of such beverages by a minor on such premises. In Essex Holding Corp. v. Hock, 136 N.J.L. 28, it was held that the word "suffer" imposes responsibility on a licensee regardless of knowledge where there is a failure to prevent the prohibited conduct by those occupying the premises with his authority.

When a licensee, as here, permits minors upon his premises, it becomes his duty to see that alcoholic beverages placed together on the bar in front of an adult patron are not intended for some of those minors. Were it otherwise, minors need but disappear temporarily in order to have licensees serve alcoholic beverages to them with impunity. See Re Morganstern and Oliner, Bulletin 292, Item 9.

I find from the evidence herein that the barmaid served two glasses of beer to the female patron who, in turn, served one of them to the minor, and that such service constitutes a sale within the broad statutory definition of "sale" appearing in R. S. 33:1-1(w). Moreover, it is admitted by the minor that he consumed a portion of the beer thus served. I conclude, therefore, that defendant is guilty of the violation as set forth in Charge 1.

In view of my findings and conclusions herein, the non vult plea entered by defendant as to the second charge, and the fact that defendant has no prior adjudicated record, I shall suspend his license for a period of fifteen days on Charge 1 (Re Goldere, Bulletin 1110, Item 1), and for an additional period of ten days on Charge 2 (Re Sisco, Bulletin 1067, Item 5), making a total suspension of twenty-five days.

Accordingly, it is, on this 7th day of February, 1957,

ORDERED that Plenary Retail Consumption License C-163, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Jim V. Primiterra, t/a Charlie's 122 Club, for premises 122 Adams Street, Hoboken, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. February 18, 1957, and terminating at 2:00 a.m. March 15, 1957.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS - PREMISES CLOSED - FURTHER ORDER TO BE ENTERED UPON REOPENING.

In the Matter of Disciplinary Proceedings against)

IRVIN EDELSON)
T/a STEVE BRODY'S BAR)
1101-03-05-07-09 Ocean Avenue)
Asbury Park, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-10, issued by the City Council of the City of Asbury Park.)
-----)

Harry Edelson, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

"Defendant pleaded not guilty to the following charge:

'On August 1, 1956 and on divers dates prior thereto, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Pvt. Bobby ---, U. S. Army, age 19, and Pvt. Norman ---, U.S. Army, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.'

"At the hearing held herein Pvt. Norman ---, 20 years of age, testified that he and Pvt. Bobby ---, both then wearing civilian clothing, entered defendant's licensed premises on August 1, 1956, at about 8:45 p.m. and took seats at a table; that he purchased from an unidentified waitress a bottle of beer and thereafter another bottle and a glass of beer; that Bobby --- purchased from the same waitress a 'Singapore Sling; that he and his companion consumed their drinks during the hour they remained on the premises. Pvt. Norman --- also testified that he, Pvt. Bobby --- and another soldier returned to defendant's licensed premises on the same evening, at about 11:00 p.m.; that he then purchased from another waitress, whom he identified as Birdie Sims, a bottle of beer and, later, a glass of beer; that Bobby --- purchased from the same waitress about four drinks of whiskey; that he and Bobby --- consumed their drinks during the period of about forty-five minutes they and the third soldier remained on the premises.

"Pvt. Bobby ---, 19 years of age, substantially corroborated the testimony given by Pvt. Norman ---. Each of them testified that no one in the licensed premises had questioned them as to their respective ages.

"The third soldier corroborated the aforesaid testimony as to the second visit on the evening of August 1, 1956.

"An ABC agent testified that on August 4, 1956, he and another agent accompanied the three soldiers to defendant's premises; that the three soldiers identified the premises and

identified Birdie Sims as the waitress who had made the service on the second visit to the premises.

"On behalf of defendant, Mrs. Birdie Sims testified that she served alcoholic beverages to Pvt. Bobby --- on the evening in question, but did not remember seeing either of the other soldiers in the premises at any time. She testified that she served Pvt. Bobby --- after he had exhibited to her an Army card stamped 'adult.' She admitted that she had received from him no written representation that he was twenty-one years of age or over. In rebuttal, Pvt. Bobby --- denied that he had exhibited any card to Mrs. Sims.

"There appears to be no reason why the soldiers should testify falsely in this case. I believe that both minors purchased and consumed alcoholic beverages on defendant's premises on the evening of August 1, 1956. Even if one of them exhibited an 'adult' card, which I seriously doubt, defendant has failed to establish a defense under the provisions of R. S. 33:1-77. The testimony as to alleged sales on divers dates prior to August 1, 1956, is being disregarded because it does not clearly appear that alcoholic beverages were served to either minor on prior visits to defendant's premises.

"Defendant has no prior adjudicated record. Upon the evidence presented I recommend that defendant be found guilty of the charge, except as to 'divers dates prior' to August 1, 1956, and that an order be entered suspending his license for a period of fifteen days (Re Cadillac Bar Corp., Bulletin 1141, Item 3.)"

The Attorney for defendant has filed no exceptions within the time limited by Rule 6 of State Regulation No. 16, but has alleged, in writing, that there are some differences between notes taken by him at the hearing and the facts set forth in the Hearer's Report. I have examined the evidence carefully and find that the statement of facts in the Hearer's Report correctly sets forth the evidence given at the hearing. I hereby adopt the conclusions set forth therein as my conclusions in this case.

Investigation discloses that defendant's business is conducted on a seasonal basis and that the premises are now substantially closed. Thus no effective penalty can be imposed at the present time. The effective dates of the suspension will be fixed by further order which will be entered by me after the licensed premises shall have reopened for business for the 1957 season. Cf. Re DeFreitas, Bulletin 1051, Item 5.

Accordingly, it is, on this 5th day of February, 1957,

ORDERED that Plenary Retail Consumption License C-10, issued by the City Council of the City of Asbury Park to Irvin Edelson, t/a Steve Brody's Bar, for premises 1101-03-05-07-09 Ocean Avenue, Asbury Park, be and the same is hereby suspended for a period of fifteen (15) days, the time to be fixed by subsequent order as aforesaid.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

IRVIN MORDELL)
T/a TRIANGLE LIQUOR STORE)
1515 Arctic Avenue)
Atlantic City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-25, issued by the Board of Commissioners of the City of Atlantic City.)

Emory J. Kiess, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant has pleaded non vult to the following charge:

"On December 22, 1956, 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., Ronald ---, age 17; in violation of Rule 1 of State Regulation No. 20."

Acting upon information received from the Ventnor Police Department, ABC agents obtained sworn written statements (dated December 26, 1956) from two minors -- one from Ronald --- (age 17) and the other from John --- (age 16). Ronald in his statement says that on Saturday, December 22, 1956, at about 7:30 p.m., John and he drove to defendant's licensed premises where he had purchased beer on a previous occasion; that, while John remained in the car, he entered the premises and bought a pint-bottle of whiskey and two quart-bottles of beer from Irvin Mordell (the licensee); that no one on the premises questioned him about his age; that he carried the aforesaid three bottles, wrapped in a paper bag, into the automobile; that John and he drove off and consumed the aforesaid alcoholic beverages and, later that night, were arrested by the Ventnor Police. John substantially corroborated Ronald's statement.

On December 26, 1956, following the execution of the aforesaid statements, the two minors directed two ABC agents to the licensed premises. Ronald and the two agents entered the premises where Ronald identified Irvin Mordell as the person who sold him the alcoholic beverages.

Defendant has no prior adjudicated record. I shall suspend his license for a period of twenty days (the minimum suspension for the type of violation charged herein).
Re Kelly's Half Way House (A corp.), Bulletin 1147, Item 1. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 13th day of February, 1957,

ORDERED that Plenary Retail Distribution License D-25, issued by the Board of Commissioners of the City of Atlantic City to Irvin Mordell, t/a Triangle Liquor Store, for premises

1515 Arctic Avenue, Atlantic City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 9:00 a.m. February 25, 1957, and terminating at 9:00 a.m. March 12, 1957.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

RUBIN ECKSTEIN)
T/a RUBIN'S TAVERN & RESTAURANT)
42 Paterson Street)
Paterson 1, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-112, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

Rubin Eckstein, Defendant-licensee, Pro se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on Sunday, November 4, 1956, he sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

On Sunday, November 4, 1956, at about 1:00 p.m., an ABC agent entered the licensed premises and took a seat at the bar. Shortly thereafter, the agent observed the bartender making a sale of a pint of whiskey to an individual for off-premises consumption. The agent thereupon asked the bartender if he could have a pint of Seagram's Seven Crown Whiskey "to take out." The bartender handed him a pint bottle of the aforementioned brand of whiskey and accepted \$3.25 in payment thereof. The agent then left the premises to which he immediately returned with two other agents. The three agents identified themselves to the bartender who admitted making the aforesaid illegal sales.

Defendant has a prior adjudicated record. Effective April 18, 1935, his license was suspended for fourteen days by the local issuing authority for sale of illicit liquor. Since the aforesaid violation occurred more than ten years ago, it will not be considered in fixing the penalty herein. Re Stefura, Bulletin 1090, Item 3. I shall suspend defendant's license for a period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Kardasinetz, Bulletin 1141, Item 6.

Accordingly, it is, on this 14th day of February, 1957,

ORDERED that Plenary Retail Consumption License C-112, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Rubin Eckstein, t/a Rubin's Tavern & Restaurant, 42 Paterson Street, Paterson, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. February 25, 1957, and terminating at 3:00 a.m. March 7, 1957.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

DAVIS PHARMACY, INC.
2-8 Wilsey Square
Ridgewood, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Board of Commissioners of the Township of Ridgewood.

Meehan Brothers, Esqs., by John J. Meehan, Esq., Attorneys 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 it sold alcoholic beverages 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.

On November 13, 1956 John E. Quinn, clerk in charge of sales of alcoholic beverages for the defendant, agreed to sell an agent of this Division a case (12 - 4/5 quart bottles) of "Vat 69" Scotch Whisky for \$61.00. The then currently effective price was \$71.25, inclusive of the 5% permissible discount. The agent promised to return the next day to make the purchase. On November 14, 1956 at about 1:30 p.m., the agent returned to the licensed premises and had a short conversation with the same clerk, following which he paid him \$61.00 in "marked" money for a case of the aforementioned brand of whisky. The agent thereupon picked up his purchase and walked to the exit of the premises where he was met by two other ABC agents. The agents identified themselves to Mr. Quinn who admitted the aforesaid illegal sale.

The defendant has no prior adjudicated record. It, however, appears that Arthur Capelli, president and holder of 99% of the stock of the corporate-licensee herein, while in partnership with one Charles Raimondi, held a license for premises 97 Hudson Street, Hoboken, which license was suspended by this Division for ninety days, effective August 16, 1950, for (1) immoral activity, (2) hostesses, (3) service to intoxicated persons, (4) brawls, and (5) nuisance. Re Raimondi & Capelli, Bulletin 884, Item 8. However, since these dissimilar violations occurred more than five years ago, I shall not consider them in fixing the penalty herein. Re O'Donnell, Bulletin 1131, Item 9. I shall suspend defendant's license for the minimum period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Berberian, Bulletin 1130, Item 5.

Accordingly, it is, on this 4th day of February, 1957,

ORDERED that Plenary Retail Distribution License D-1, issued by the Board of Commissioners of the Township of Ridgewood to Davis Pharmacy, Inc., 2-8 Wilsey Square, Ridgewood, be and the same is hereby suspended for a period of five (5) days, commencing at 9:00 a.m. February 11, 1957, and terminating at 9:00 a.m. February 16, 1957.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - STATE BEVERAGE DISTRIBUTOR - SALE TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)	
)	
BURLINGTON BEVERAGES, INC.)	
306 W. State Highway #130 & Lincoln Avenue)	CONCLUSIONS AND ORDER
Burlington, N. J.,)	
Holder of State Beverage Distributor's License SED-16, issued by the Director of the Division of Alcoholic Beverage Control.)	

 Burlington Beverages, Inc., by Joseph J. Zimecki, President.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to the following charge:

"On December 27, 1956, you sold alcoholic beverages, viz., one case (24 - 12 ounce bottles) of Esslinger's Premium Beer, from a vehicle on a public highway, known as Woodpecker Lane, Mount Holly Township, New Jersey; in violation of Rule 3 of State Regulation No. 17."

Acting on information received from the Mount Holly Police Department, an ABC agent obtained a sworn written statement, dated December 28, 1956, from Joseph Weber, Sr., a building inspector and special officer of Mount Holly. Mr. Weber in his statement says that at about 3:30 p.m. on December 27, 1956 he saw the licensee's truck parked on Woodpecker Lane in Mount Holly; that he drove his car alongside of the truck and therein observed five cases of beer and that shortly thereafter the driver sold him a case (24 - 12 ounce bottles) of Esslinger's Premium Beer, accepted \$4.25 in payment thereof and carried the beer from the truck to the trunk of his automobile.

In mitigation of penalty, Joseph J. Zimecki, president of defendant-licensee, submitted a statement setting forth therein that the company operates a small business; that it only has three employees, Joseph J. Zimecki, his wife, and a third party (the stockholders of the company); that on the day in question he was ill and confined to his home while his wife was in the office; that the driver of the truck acted without permission and that he was temporarily employed to assist during the holiday season.

Licensees, nevertheless, are directly answerable for a violation of the Alcoholic Beverage Law and State Regulations by their employees. Cf. Re Pinto, Bulletin 639, Item 4.

Defendant has no prior adjudicated record. Considering all the circumstances herein, I shall suspend defendant's license for ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Carucci, Bulletin 812, Item 3.

Accordingly, it is, on this 14th day of February, 1957,

ORDERED that State Beverage Distributor's License SED-16, issued by the Director of the Division of Alcoholic Beverage Control to Burlington Beverages, Inc., 306 W. State Highway #130 & Lincoln Avenue, Burlington, be and the same is hereby suspended

for a period of five (5) days, commencing at 9:00 a.m. February 25, 1957, and terminating at 9:00 a.m. March 2, 1957.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - SALE OF BEER 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)

F. & S. TAVERN, INC.)
T/a HOUSE OF FENNESSEY)
1108 Clinton Avenue)
Irvington 11, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-23, issued by the Board of Commissioners of the Town of Irvington.)

F. & S. Tavern, Inc., Defendant-licensee, by Milton H. Hollander, President,
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to a charge that it sold alcoholic beverages 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 January 19, 1957, Walter Schwebel (an officer of the defendant-licensee) sold seven 12-ounce cans of Gunther Premium Beer to an agent of this Division for 99¢. The minimum consumer resale price then in effect for each of the aforementioned cans of beer was 15¢, for a pack of six cans 87¢, and for seven cans \$1.02. After the sale was consummated, the agent and two others who joined him identified themselves to Mr. Schwebel who then gave a written statement admitting the aforesaid illegal sale.

The defendant has no prior adjudicated record. I shall suspend its license for the minimum period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days (Re Bregman, Bulletin 1128, Item 12).

Accordingly, it is, on this 14th day of February, 1957,

ORDERED that Plenary Retail Consumption License C-23, issued by the Board of Commissioners of the Town of Irvington to F. & S. Tavern, Inc., t/a House of Fennessey, 1108 Clinton Avenue, Irvington, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. February 25, 1957, and terminating at 2:00 a.m. March 2, 1957.

WILLIAM HOWE DAVIS
Director.

9. DISCIPLINARY PROCEEDINGS - FRONT - SUSPENSION FOR BALANCE OF TERM LIFTED UPON CORRECTION OF UNLAWFUL SITUATION.

In the Matter of Disciplinary Proceedings against)

ANTHONY VERGA & MARIETTA RAPPISE)
T/a BUFFALO BAR & GRILL)
235 Buffalo Avenue)
Paterson, N. J.,)

ON PETITION
O R D E R

Holders of Plenary Retail Consumption License C-173, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

John G. Dluhy, Esq., Attorney for Petitioner, Savas Loukedas.

BY THE DIRECTOR:

On November 20, 1956, I suspended defendants' license C-173 for the balance of its term, effective at 3:00 a.m. November 27, 1956, after they pleaded non vult to charges alleging, in effect, that John Rappise had an undisclosed interest in said license. See Bulletin 1145, Item 3. In said order it was provided that if the business was sold and the license transferred by the local issuing authority to a qualified person, a petition might be filed with me by said transferee to lift the suspension after at least ninety days of the suspension had been served.

Pursuant to said leave, Savas Loukedas has filed a verified petition from which it appears that he has entered into an agreement to purchase said business subject to the transfer of the license and that, on February 13, 1957, the Board of Alcoholic Beverage Control for the City of Paterson approved his application for a transfer of said license. The Secretary of said Board has certified to me that, on February 13, 1957, the Board approved said application, subject to the suspension previously imposed and subject to the special condition that the transfer shall not become effective or be endorsed on the license certificate until proposed alterations are completed in accordance with approved plans and specifications.

It appearing from the foregoing facts that the unlawful "front" situation has been corrected and it further appearing that the license will have been under suspension for a period of ninety days at 3:00 a.m. February 25, 1957, the suspension will be lifted at that time.

Accordingly, it is, on this 20th day of February, 1957,

ORDERED that the suspension heretofore imposed be lifted, effective at 3:00 a.m. February 25, 1957, and that the transfer become effective and be endorsed on the license certificate as soon thereafter as the transferee complies with the special condition concerning the alterations on the licensed premises.

WILLIAM HOWE DAVIS
Director.

10. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - SALE TO NON-MEMBERS - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 SOUTH CAMDEN BOCCE CLUB)
 410 Line Street)
 Camden, N. J.,)
)
 Holder of Club License CB-6,)
 issued by the Municipal Board of)
 Alcoholic Beverage Control of the)
 City of Camden.)

CONCLUSIONS AND ORDER

 South Camden Bocce Club, Defendant-licensee, by Seriano DiMarco, President.
 Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On January 5, 1957 you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to persons not bona fide members of your club or bona fide guests of any such members; in violation of Rule 8 of State Regulation No. 7."

The file herein discloses that on January 5, 1957 at about 11:00 p.m., an ABC agent entered defendant's licensed club and took a seat at the bar. There he purchased and consumed two drinks of whiskey and two glasses of beer served by a bartender who did not inquire of the agent whether he was a member or a bona fide guest of a member of such club. The agent is not a member of the club and was not a guest of a member thereof. The agent and another agent who joined him identified themselves to Quintilio Viviani, the bartender, and obtained a signed sworn statement from him wherein he acknowledges that he sold the alcoholic beverages to the agent without inquiring whether he was a member of the club.

Defendant has a prior adjudicated record. Effective March 9, 1944, its license was suspended for the balance of its term for an "hours" violation and sale to non-members. Re South Camden Bocce Club, Bulletin 609, Item 9. Because these violations, similar and dissimilar, occurred more than ten years ago they will not be considered in fixing penalty herein. Re Clendenny Tavern, Inc., Bulletin 1147, Item 6. I shall suspend defendant's license for the minimum period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Orange Lodge #135, B.P.O. Elks, Bulletin 1127, Item 5.

Accordingly, it is, on this 20th day of February, 1957,

ORDERED that Club License CB-6, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to South Camden Bocce Club, 410 Line Street, Camden, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. March 4, 1957, and terminating at 2:00 a.m. March 14, 1957.

WILLIAM HOWE DAVIS
 Director.

11. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY - STOCK OF ALCOHOLIC BEVERAGES AND FURNITURE AND EQUIPMENT ORDERED FORFEITED - VARIOUS ARTICLES RETURNED TO INNOCENT OWNERS.

In the Matter of the Seizure on August 4, 1956 of a quantity of alcoholic beverages, furnishings, fixtures, equipment and \$47.60 in cash, at premises 337 Harrison Avenue, in the City of Garfield, County of Bergen and State of New Jersey.) Case No. 9248 ON HEARING CONCLUSIONS AND ORDER

Jersey Amusement Company, by Rubin Hirschorn, General Manager. Bond Cigarette Service Co., by Howard B. Levine. I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether a quantity of alcoholic beverages, \$47.60 in cash, and various articles of furniture, fixtures and equipment, described in a schedule attached hereto, seized on August 4, 1956 at 337 Harrison Avenue, Garfield, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R. S. 33:1-66, an appearance was entered on behalf of Jersey Amusement Company, which sought return of a music box and a bowling machine, and an appearance was entered on behalf of Bond Cigarette Service Co., which sought return of a cigarette vending machine. No one opposed forfeiture of the alcoholic beverages, \$47.60 in cash and the balance of the property seized.

ABC agents testified at the hearing that there was a sign on the exterior of the premises which read: "Non-Partisan Voters Assn.", and the interior of the premises was equipped with a bar, bar stools, booths and other like appurtenances; that on July 28, 1956, at about 3:00 a.m., two agents entered the premises and purchased various drinks of alcoholic beverages and observed other persons purchasing drinks of alcoholic beverages. The agents left without disclosing their identities.

Two of these agents returned to the premises on August 4th and again purchased various drinks of alcoholic beverages from Grayce Houston who was tending bar. There were other persons drinking alcoholic beverages at the time. The agents paid for their drinks with six one-dollar bills identified by serial numbers. Other ABC agents entered, as prearranged, and all the agents disclosed their identities to Grayce Houston. Upon request she surrendered the cash on hand, which was in a bag underneath the bar. The money in the bag totaled \$47.60 and included the six marked bills.

The agents seized the stock of alcoholic beverages in the establishment, the \$47.60 in cash and all of the furniture, fixtures and equipment therein. They obtained a signed and sworn statement from Grayce Houston wherein she states that she operated a speakeasy at the premises since July 27, 1956 and that she sold alcoholic beverages therein on August 4th to the agents and to other persons. Grayce Houston did not hold any license to sell alcoholic beverages and the premises were not licensed for that purpose.

The evidence presented establishes that the seized alcoholic beverages were intended for unlawful sale and hence are illicit. R. S. 33:1-1(1). Such illicit alcoholic beverages and the cash, furniture, fixtures and other equipment seized therewith constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

Jersey Amusement Company and Bond Cigarette Service Co. presented evidence which establishes that they dealt with Grayce Houston in the normal course of their business routine when installing their aforementioned equipment. The employee of the Jersey Amusement Company responsible for placing its two machines in the establishment testified that he previously had satisfactory dealings with Mrs. Houston when she operated a tavern in a nearby municipality. The representative of the cigarette company testified to like effect.

These claimants therefore could reasonably assume from their past dealings with Mrs. Houston when she held a license that similarly she held a license at her new premises. I am therefore satisfied that they acted in good faith and that they did not know or suspect that she was operating a speak-easy. I shall therefore recognize their respective claims. R. S. 33:1-66(f).

Accordingly, it is DETERMINED and ORDERED that if on or before the 28th day of February, 1957, Jersey Amusement Company pays the costs incurred in the seizure and storage of its music box and bowling machine and Bond Cigarette Service Co. pays the costs incurred in the seizure and storage of its cigarette vending machine, such machines, as listed and more fully described in Schedule "A" attached hereto will be returned to them respectively; and it is further

DETERMINED and ORDERED that the balance of the seized property, including the cash, listed in the aforesaid Schedule "A", constitutes unlawful property, and the same be and hereby is 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, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
Director.

Dated: February 18, 1957.

SCHEDULE "A"

- 15 - bottles of various brands of alcoholic beverages
- 3 - cases of soda
- 1 - Mystic Bowler machine and currency therein
- 6 - chairs
- 1 - desk
- 1 - lamp
- 1 - fan
- 1 - cigarette vending machine
- 2 - piece leather couch
- 1 - coffee table
- 1 - music box and currency therein
- 3 - tables
- 1 - television set
- 4 - booths
- 13 - bar stools
- 1 - Formica bar
- 1 - Coca Cola freezer
- 4 - boxes containing drinking glasses
- 1 - soda freezer
- 1 - closet
- \$47.60 in cash

12. STATUTORY AUTOMATIC SUSPENSION - LICENSE PREVIOUSLY SUSPENDED BY DIRECTOR - APPLICATION TO LIFT GRANTED.

Auto. Susp. #132)
 In the Matter of Disciplinary)
 Proceedings against)
 KELLY'S HALF WAY HOUSE (A Corp.))
 T/a KELLY'S HALF WAY HOUSE)
 210 So. Blvd., Belcoville)
 Weymouth Township)
 PO Mays Landing, N. J.,)
 Holder of Plenary Retail Consumption)
 License C-2, issued by the Township)
 Committee of Weymouth Township.)

ON PETITION
 O R D E R

 Lipman & Casella, Esqs., Attorneys for Petitioner.

It appears from a verified petition filed by John F. Kelly that he is president and treasurer of the above named corporation and that on January 22, 1957, he received a suspended sentence to a county jail and was fined \$100.00 by a Judge of the Atlantic County Criminal Court after he had pleaded non vult to an indictment for selling alcoholic beverages to minors in violation of R. S. 33:1-77. Said conviction resulted in the automatic suspension of the license held by the corporation for the balance of its term. R. S. 33:1-31.1. The petition requests the lifting of said suspension.

By order dated November 20, 1956, the Director suspended the license held by the corporation for fifteen days after defendant had pleaded non vult to a charge alleging that it sold alcoholic beverages to the same minors. The suspension was effective from 3:00 a.m. December 3, 1956 to 3:00 a.m. December 18, 1956. See Bulletin 1147, Item 1.

Since the suspension heretofore imposed is adequate, the relief sought will be granted.

Accordingly, it is, on this 27th day of February, 1957,

ORDERED that the automatic suspension of Plenary Retail Consumption License C-2, held by Kelly's Half Way House (A Corp.), t/a Kelly's Half Way House, for premises 210 So. Blvd., Belcoville, Weymouth Township, be and the same is hereby lifted and said license is restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS
 Director.

By: Edward J. Dorton
 Deputy Director.

13. STATE LICENSES - NEW APPLICATIONS FILED.

Stewart-Hill, Inc.
45-47 East Bigelow Street
Newark, N. J.

Application filed April 3, 1957 for place-to-place transfer
of Plenary Wholesale License W-45 from 361-367 Jeliff Avenue,
Newark, N.J.

Lawrence Warehouse Company
1315 Baltic Avenue
Atlantic City, N.J.

Application filed April 5, 1957 for Public Warehouse License.


William Howe Davis
Director.