

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

BULLETIN 1169

JUNE 5, 1957.

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Defendant has a prior adjudicated record. Effective May 27, 1956, his license was suspended for five days by the local issuing authority for an "hours" violation. The minimum suspension for violations such as these now under consideration is thirty days. Re Silver Top Bar & Grill, Inc., Bulletin 827, Item 8. In view of defendant's dissimilar record within the past five years, I shall suspend defendant's license for a period 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 10th day of April, 1957,

ORDERED that Plenary Retail Consumption License C-234, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth to Steve Butelewicz, 148 Fifth Avenue, Elizabeth, be and the same is hereby suspended for a period of thirty (30) days, commencing at 2:00 a.m. April 17, 1957, and terminating at 2:00 a.m. May 17, 1957.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - GAMBLING - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against

VALENTINE J. KANIEWSKI
T/a KANEY'S
154 Passaic Street
Passaic, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-93 (for the 1955-56 and 1956-57 licensing years), issued by the Board of Commissioners of the City of Passaic.

Duffy & Ruggiero, Esqs., by Vincent C. Duffy, Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, 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 April 10 and 12, 1956 you allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.'

"Three of the Division's agents participated in the investigation which resulted in the proceedings herein. In the testimony and comment hereinafter set forth, the full names of the agents will not be used but, instead, the initial letter of the last name, 'N', 'F' and 'R'.

"Agent 'N' testified that he visited defendant's licensed premises at 12:30 p.m. on April 10, 1956 and again at 12:05 p.m. on April 12, 1956, and that on both occasions a man subsequently identified as Barney Kaniewski (hereinafter referred to as Barney),

brother of the defendant, was tending bar, and a man called Henry, subsequently identified as Henry Kaniewski (hereinafter referred to as Henry), a brother of the bartender and of the defendant, was also in the licensed premises. Agent 'N' testified that on each visit he observed from time to time various men go into the men's room followed by Henry and when the latter returned to the barroom, he would give Barney a sum of money; that on April 10, he (Agent 'N') placed a horse bet with Barney, handed him a ten-dollar bill and received \$4.00 in change; that Barney approached Henry at which time the agent heard him tell Henry about the bet that he had just received. Agent 'N' further testified that on April 12, 1956, he went into the men's room and Henry, who followed him, inquired, 'What can I do for you?'; that Agent 'N' then placed a bet on a horse with Henry, giving him six one-dollar bills (the serial numbers of which had previously been recorded); that Henry wrote the name of the horse on a piece of paper and left the men's room followed by Agent 'N' and Agent 'F' who had entered a short time before, all proceeding to the bar. Agent 'N' also testified that while seated at the bar with Agent 'F', he heard a man ask Barney for a piece of paper and as Barney gave it to him, he remarked, 'Don't write nothing here. County men are around' and that the man went to the rear end of the bar and handed the piece of paper and some money to Henry who then left the premises. Agent 'F' told Barney that he desired to place a bet with him and Barney, looking in the direction of the door, said, 'Henry will be in in a little while'. When Henry re-entered the premises, Agent 'F' placed a bet with him, giving in payment a five-dollar bill and a one-dollar bill (the serial numbers of which had previously been recorded); that Henry went into the men's room but returned in a short time and handed some money to Barney. Henry thereupon left the premises but returned shortly thereafter as two police officers and Agent 'R' entered the premises. Agent 'N' further testified that an inspection of the premises resulted in the finding of numerous small white pads behind the bar and when, in the presence of Barney, the contents of the cash register were examined, two one-dollar bills, the serial numbers of which had been previously noted and which had been given to Henry in the men's room in payment of the agent's bet, were found.

"Agent 'F' testified that he entered defendant's premises at 12:05 p.m. on April 12, 1956. His testimony, in substance, corroborated the events that took place on said date as testified to by Agent 'N'. Agent 'F' testified, in addition thereto, that in his presence Henry was searched but that no slips were found on his person nor did the bills taken from Henry include any of the money from which the serial numbers had been previously recorded.

"Agent 'R' testified that he entered defendant's licensed premises with Henry and the two police officers and that included in the money which Barney had in his possession was a five-dollar bill and two one-dollar bills, the serial numbers of which had been previously noted.

"Barney Kaniewski testified that he was on duty as bartender in defendant's licensed premises on April 10 and 12, 1956, and recalled Agent 'N' being there on those occasions; that he spoke at one time to Agent 'N' about his alleged employment as a decorator for a liquor concern but did not accept any bets from him; that on April 12, law-enforcement officers who came into the premises searched him, his brother Henry and the premises itself; that \$174.00 was taken from his person; that

thereafter he proceeded to the County Prosecutor's Office where he received a receipt for the money. He further testified that no racing slips were found in defendant's licensed premises and that it was his practice to keep a sizeable sum of money on hand for cashing patrons' pay checks.

"Henry Kaniewski testified that he is employed as a night bartender by defendant, was in defendant's tavern during the daytime on the days in question but never accepted bets on horses from anyone.

"Defendant testified that both Barney and Henry are employed as bartenders and that he only works in the premises on Sundays from 1:00 to 10:00 p.m. Defendant further testified that on the dates now under consideration, he did not allow, permit or suffer gambling in his licensed premises.

"I have examined the testimony adduced herein and am satisfied that the agents have described with accuracy the gambling activities that transpired in defendant's licensed premises. Moreover, I am satisfied that although there is no evidence that defendant participated in the gambling activities, Both Barney, the brother on duty as bartender, and Henry, the brother off-duty but in the premises at the times in question, participated therein. The testimony of Barney and Henry during extensive cross-examination was extremely evasive as neither could remember much that allegedly occurred on the dates in question.

"The licensee's lack of knowledge cannot be excused, particularly where, as here, he absents himself from the licensed premises and, for appreciable periods of time, leaves the management of the licensed business to another, thus substantially abandoning supervision over the licensed premises; nor can such lack of knowledge save him from the full impact of the merited penalty. Re Filippone, Bulletin 875, Item 6.

"After careful consideration of all the testimony adduced herein, I recommend that defendant be found guilty of the charge preferred in this case.

"Defendant has a prior adjudicated record. Effective September 22, 1946, defendant's license was suspended by the local issuing authority for five days after he pleaded guilty to a charge alleging that on July 29 and 30, 1946, he allowed, permitted and suffered bookmaking on his licensed premises. The minimum penalty for an unaggravated violation such as that now under consideration wherein defendant or his employees participate therein is twenty-five days. Re Furnick's Tavern, Incorporated, Bulletin 1131, Item 10. In view of the similarity of the prior violation to the present violation and the fact that it occurred within the past ten years, I recommend that defendant's license be suspended for thirty days."

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

I have carefully considered the entire record in this case, including the transcript of testimony, the Hearer's Report and the exceptions and written argument of counsel, and concur in and adopt the findings and recommended conclusions of the Hearer in this case. I shall suspend defendant's license for thirty days.

Accordingly, it is, on this 9th day of April, 1957,

ORDERED that Plenary Retail Consumption License C-93, issued by the Board of Commissioners of the City of Passaic to Valentine J. Kaniewski, t/a Kaney's, 154 Passaic Street, Passaic, be and the same is hereby suspended for a period of thirty (30) days, commencing at 3:00 a.m. April 16, 1957, and terminating at 3:00 a.m. May 16, 1957.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - GAMBLING - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

FRED BLOME)
4628 Broadway)
Union City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-220, issued by the Board of Commissioners of the City of Union City.)
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Fred Blome, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to the following charges:

"1. On March 15, 1957, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the playing of a pool game for stakes of money; in violation of Rule 7 of State Regulation No. 20.

"2. On Thursday, March 21, 1957, at about 12:40 A.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 alcoholic beverages in their original containers from your licensed premises, viz., six (6) 12 ounce cans of Schaefer beer; in violation of Rule 1 of State Regulation No. 38."

The file herein discloses that on Friday, March 15, 1957 at about 11:00 p.m., ABC agents entered the licensed premises and took seats at the bar. Fifteen minutes thereafter they observed the licensee, Fred Blome, and two patrons engage in several games of pool on a bagatelle table. Upon the conclusion of each game, the agents saw the victor thereof collect fifty cents from each of the other players. At the end of one of the games, the agents heard one of the men say to the licensee, "We were playing for a buck a game" to which the licensee replied, "No. Only a half a buck".

On Wednesday, March 20, 1957 at about 9:55 p.m., the agents returned to the premises wherein they saw the licensee acting as bartender. About an hour later they observed evidence of a sale to a female patron of a number of cans of beer for off-premises consumption. At about 12:40 a.m., one of the agents

asked the licensee for six cans of beer. Mr. Blome thereupon took six cans of Schaefer beer from the cooler, placed them in a paper bag, handed the package to the agent and accepted \$1.15 in payment for the same. The agents then left the premises with the alcoholic beverages, returned to the same within a few minutes and identified themselves to the licensee who gave a sworn written statement admitting the aforesaid violations.

Defendant has no prior adjudicated record. I shall suspend his license for the minimum period of twenty days on Charge 1 (Re Datti, Bulletin 1128, Item 5), and for an additional fifteen days on Charge 2 (Re DiMattia, Bulletin 1141, Item 10), 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 16th day of April, 1957,

ORDERED that Plenary Retail Consumption License C-220, issued by the Board of Commissioners of the City of Union City to Fred Blome, 4628 Broadway, Union City, be and the same is hereby suspended for a period of thirty (30) days, commencing at 3:00 a.m. April 23, 1957, and terminating at 3:00 a.m. May 23, 1957.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - SALES TO NON-MEMBERS - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

THE 59 SOCIAL CLUB)
426a 63rd Street)
West New York, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License CB-3, issued by the Board of Commissioners of the Town of West New York.)

Bozzuffi and Preolo, Esqs., by William J. Bozzuffi, 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 the following charges:

"1. On Saturday, March 9, 1957 between 3:00 A.M. and 3:35 A.M., you sold, served, delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and allowed the consumption of alcoholic beverages on your licensed premises; in violation of Section 6 of a Resolution adopted by the Board of Commissioners of the Town of West New York on December 15, 1933, as amended by Ordinance adopted by said Board on January 12, 1943.

"2. On the occasion aforesaid 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 member; in violation of Rule 8 of State Regulation No. 7."

On Saturday, March 9, 1957 at about 3:20 a.m., an ABC agent entered the defendant's licensed club wherein he observed a number of people (male and female) consuming beer and mixed drinks. The agent took a seat at the bar and was served a bottle of beer by the bartender who accepted 15¢ in payment thereof. At about 3:25, two other ABC agents joined the aforesaid agent at the bar and consumed several bottles of beer, likewise served to them by the bartender at 15¢ per bottle. Shortly thereafter the agents, non-members of the club, identified themselves to the bartender and to the manager of the licensed premises and informed them of the violations.

In mitigation of penalty, the defendant has submitted a statement together with some letters of reference setting forth therein, amongst other things, the noble purposes for which the defendant organization has been formed, the many good deeds it has effected and that it is not a "money-making venture" association.

I have given due consideration to the aforesaid appeal and I am, nevertheless, constrained to impose the penalties heretofore fixed in cases of a similar nature. Cf. Re Hoboken Post #107, The American Legion, Bulletin 1150, Item 3.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of fifteen days on Charge 1 (cf. Re Weber, Bulletin 1068, Item 10), and for an additional fifteen days on Charge 2 (Re Orange Lodge #135, B.P.O. Elks, Bulletin 1127, Item 5), making a total suspension of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 16th day of April, 1957,

ORDERED that Club License CB-3, issued by the Board of Commissioners of the Town of West New York to The 59 Social Club, 426a 63rd Street, West New York, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 3:00 a.m. April 22, 1957, and terminating at 3:00 a.m. May 17, 1957.

WILLIAM HOWE DAVIS
Director.

- 5. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ALFRED PASSERO)
T/a HILLCREST WINE & LIQUORS)
168-170 Union Avenue)
Paterson, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-35, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

Alfred Passero, Defendant-licensee, Pro se.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to three charges alleging that on three different dates he sold alcoholic beverages at

less than the prices listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulation No. 30.

The file discloses that on December 13, 1956, an ABC agent purchased from the licensee two quart-bottles of Mogen David Concord Wine for \$2.50. The minimum resale price then in effect for each bottle of the brand sold was \$1.29.

The file further discloses that an ABC agent later obtained signed sworn statements from the licensee and his brother Arthur who is employed as a clerk by the licensee. In his statement Arthur admits that on December 7, 1956, he sold four cases of Schenley Reserve Whiskey (fifths) to one Frank Clark at \$45.00 per case and further admitted that on December 13, 1956, he sold to Clark three cases of the same brand of whiskey at the same price per case. Clark, however, in a signed sworn statement claims that he purchased the last three cases of whiskey below the minimum price on December 14, 1956. The minimum resale price per case (less permissible discount of 5%) for the aforesaid named brand of whiskey was \$51.19.

Defendant has a prior adjudicated record. Effective May 4, 1953, his license was suspended for five days by the Director for a similar violation (Re Passero, Bulletin 968, Item 11). In instances where no aggravating circumstances are present and the defendant has no previous adjudicated record, the suspension of the license for a violation of this character would be for a minimum period of ten days (Re Zar, Bulletin 816, Item 9). Since the prior similar violation occurred within a five-year period, the penalty herein will be doubled (Re Tarsi, Bulletin 1058, Item 2), and five days added because of the large amount sold (Re Friedbauer & Veronick, Bulletin 836, Item 7). I shall suspend defendant's license for a period of twenty-five days and remit five days for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 15th day of April, 1957,

ORDERED that Plenary Retail Distribution License D-35, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Alfred Passero, t/a Hillcrest Wine & Liquors, for premises 168-170 Union Avenue, Paterson, be and the same is hereby suspended for twenty (20) days, commencing at 9:00 a.m. April 23, 1957, and terminating at 9:00 a.m. May 13, 1957.

WILLIAM HOWE DAVIS
Director.

6. 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)

DONALD M. BIDDULPH)
 T/a OZZIE'S BAR & GRILL)
 Route #130, Yardville)
 Hamilton Township (Mercer Co.))
 PO Yardville, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-50, issued by the Township Committee of Hamilton Township.)

 Lenox, Giordano and Lenox, Esqs., by Samuel D. Lenox, Jr., Esq., Attorneys for Defendant-licensee.

Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he 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 March 12, 1957, Donald M. Biddulph, the licensee, sold a quart bottle of Schenley Reserve Blended Whiskey to an agent of this Division for \$5.40. The minimum consumer resale price then in effect was \$5.90. After the sale was consummated the agent and another agent, who witnessed the transaction, identified themselves to the defendant who then admitted aforesaid illegal sale.

The defendant has no prior adjudicated record. I shall suspend his 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 11th day of April, 1957,

ORDERED that Plenary Retail Consumption License C-50, issued by the Township Committee of Hamilton Township to Donald M. Biddulph, t/a Ozzie's Bar & Grill, Route #130, Yardville, Hamilton Township, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. April 22, 1957, and terminating at 2:00 a.m. April 27, 1957.

WILLIAM HOWE DAVIS
 Director.

7. DISCIPLINARY PROCEEDINGS - CHARGES ALLEGING SALE DURING PROHIBITED HOURS, SALES TO INTOXICATED PERSONS AND HINDERING INVESTIGATION DISMISSED.

In the Matter of Disciplinary Proceedings against

MICHAEL J. DOOLAN and EDWARD GALLAGHER T/a DEPOT TAVERN 25 West 8th Street Bayonne, N. J.,

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-47, issued by the Board of Commissioners of the City of Bayonne.

Meehan Brothers, Esqs., by John J. Meehan, Esq., Attorneys for Defendant-licensees. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendants pleaded not guilty to charges alleging that on Sunday, February 12, 1956 (1) they sold, served and delivered alcoholic beverages in and upon their licensed premises during prohibited hours in violation of a local ordinance, (2) they permitted persons other than the licensees and employees on the licensed premises during prohibited hours in violation of a local ordinance, (3) they allowed, permitted and suffered on their licensed premises the sale of alcoholic beverages to and the consumption of such beverages by a person actually or apparently intoxicated in violation of Rule 1 of State Regulation No. 20, and (4) they hindered and delayed an investigation of their licensed premises in violation of R. S. 33:1-35.

"The prohibited hours set forth in the ordinance referred to in Charges (1) and (2) are from 3:00 a.m. to 12:00 noon on Sundays.

"At the hearing herein an ABC agent testified, in substance, that at about 2:00 a.m., Sunday, February 12, 1956, he and another agent visited defendants' licensed premises wherein Michael J. Doolan, one of the licensees herein, was tending bar; that at 2:55 a.m., a male carrying an open bottle of beer and apparently intoxicated entered with two other males and two females; that at 2:57 a.m., Doolan served drinks of alcoholic beverages to the group of five; that at 3:00 a.m., he and his partner left the premises at Doolan's request preceded by a patron later identified as Robert Rae; that he observed Rae re-enter the premises at 3:05 a.m.; that at 3:20 a.m., he and his partner returned to the tavern and peering through the window observed the five late arrivals consuming alcoholic beverages; that he knocked on the door, pressed his credentials against the window pane and yelled, 'We're from the State ABC. Open up!'; that he received no response but saw Doolan usher the group out of the premises through the rear room. He further testified that at 3:40 a.m., the group of five, one of whom had a bottle of beer and a glass in his hands, approached from around the corner; that he and his

partner identified themselves to the group and seized the beer; that thereafter a scuffle ensued lasting 'a matter of five minutes or so'; that at 3:45 or 3:50 a.m., his partner phoned the police; that the police arrived 'shortly thereafter' and at his request put through a call to headquarters to locate Doolan; that Doolan arrived in a police car at 4:00 a.m. and was informed of the violations which he denied; that Doolan, when requested to open up the premises, told him that he (Doolan) didn't have a key but would try to get one from his partner's apartment above the licensed premises; and that he (the agent) and his partner departed without gaining access to the tavern. The agent's testimony was corroborated by that of the other agent except as to the time the police were called which he testified was 3:25 a.m. This agent was granted leave at an adjourned hearing to change his testimony and then said that he made the call at 3:43 a.m.

"Defendants called as their witnesses Doolan, Robert Rae, two police officers and a taxi driver.

"Doolan testified, in substance, that he closed the licensed premises 'in the vicinity of 2:30 a.m.' after requesting that the patrons leave; that Rae and the agents left; that Rae re-entered, deciding to accompany him and a group of people who had lately arrived to a club; that none of the group was intoxicated or apparently intoxicated; that he and the others left the premises through the rear door which is nearest to the club; that he left the club at 3:00 a.m. and went home [on West 30th Street]; that he was awakened by the police and taken to the licensed premises in a police car at 4:00 a.m.; that he denied to the agents the alleged violations and told them he could not open up the premises because he had no key but would try to get one; that later he obtained a key from his partner's father who resides with his partner above the tavern; and that he opened up the premises but found that the agents had departed.

"Rae testified that he entered the licensed premises at around 2:10 a.m.; that at about 2:15 a.m. a party of four entered; that at 2:30 a.m. all were told by Doolan to leave because he was closing up; that he left but immediately re-entered and told Doolan he would go to the club with the others; that he, Doolan and the other patrons left the premises by way of the rear door and went to the club on 10th Street; and that they left the club at 3:00 a.m. He denied that the person referred to by the agents was intoxicated or apparently intoxicated.

"The taxicab driver testified that when he returned to his station from a fare it was approximately 2:35 a.m.; that he crossed the street to defendants' licensed premises to purchase a pack of 'Kools' and found that it was closed.

"The police officers testified that they were cruising in a patrol car on the morning in question and that at 3:23 a.m. they received a radio call to proceed to defendants' licensed premises and that they responded immediately. The police report was received in evidence to verify the time of the call as testified to by the officers.

"It is apparent from the evidence adduced herein that the element of time is a vital factor to be considered in arriving at a determination with respect to the allegations set forth in Charges (1) and (2). The Division relies on the testimony of its agents who assert that at 3:20 a.m. they

observed illegal activities in and upon the licensed premises; that twenty minutes later they identified themselves to the group of five that approached from around the corner and after seizing a bottle of beer from one of the members of the group a scuffle ensued which lasted 'a matter of five minutes or so'; and that one of them at a time between 3:43 or 3:50 a.m. phoned the police who arrived 'shortly thereafter'.

"While the testimony of the agents differs with respect to the time the police were called, both agents testified that the police arrived almost immediately after being called and that a series of events alleged to have commenced at 3:40 a.m. had terminated before their arrival. Considering the aforesaid, it appears that twenty-five to thirty minutes elapsed between the time the agents allegedly observed illegal activity in and upon the licensed premises and the time one of them called the police. Since it has been definitely established that the police officers were called at 3:23 a.m. it is obvious that the alleged illegal activities could not have been observed by the agents after the 3:00 a.m. closing hour.

"With respect to Charge (3), the evidence herein is insufficient to show that an intoxicated or an apparently intoxicated person was served alcoholic beverages on the licensed premises.

"As to Charge (4), the evidence fails to establish that Doolan deliberately hindered and delayed the agents' investigation.

"After carefully considering all the facts and circumstances herein, I conclude that the Division has failed to sustain the burden of proof with respect to the alleged violations and I recommend that the charges herein be dismissed."

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

After carefully considering the facts and circumstances of the case, I concur in and adopt the Hearer's findings and recommended conclusions.

Accordingly, it is, on this 11th day of April, 1957,

ORDERED that the charges herein be and the same are hereby dismissed.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - LEWD AND FILTHY PRINTED MATTER ON PREMISES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 KATHERINE BOBOWSKY
 T/a WHITEY'S TAVERN
 539-541 Bayway
 Elizabeth 2, N. J.,
 Holder of Plenary Retail Consumption License C-138, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth.

CONCLUSIONS AND ORDER

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

BY THE DIRECTOR:

The defendant pleaded non vult to the following charge:

"On January 29, 1957, 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 books, magazines, printings, writings, stories, pictures, cartoons, photographs, photographic representations and altered photographs; in violation of Rule 17 of State Regulation No. 20."

The file herein discloses that on the date mentioned in the aforesaid charge, an ABC agent found in the drawer of a table in the kitchen, forming part of the licensed premises, divers photographs of nude persons and magazines containing nude or semi-nude persons in various indecent poses. Such pictures and characterizations are offensive to the common standards of decency and propriety and will not be tolerated on licensed premises.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of ten days. Re Messing, Bulletin 1128, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 11th day of April, 1957,

ORDERED that Plenary Retail Consumption License C-138, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth to Katherine Bobowsky, t/a Whitey's Tavern, 539-541 Bayway, Elizabeth, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. April 22, 1957, and terminating at 3:00 a.m. April 27, 1957.

WILLIAM HOWE DAVIS
 Director.

9. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATES FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON REOPENING FOR BUSINESS.

In the Matter of Disciplinary Proceedings against)

SHIRLEY SIEGEL)
T/a CLUB MIAMI)
109 Beachway)
Keansburg, N. J.,)

O R D E R

Holder of Plenary Retail Consumption License C-36, issued by the Borough Council of the Borough of Keansburg.)

Saul C. Schutzman, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

It appearing that by Order dated February 6, 1957, the license held by the above named defendant was suspended for thirty days, and that the effective dates of said suspension were to be fixed by subsequent order (Bulletin 1159, Item 5); and

It further appearing that on March 30, 1957, an ABC agent checked defendant's premises and reported that, while the premises were open for business, there appeared to be very little activity and that this licensed premises does not generally open until the month of May,

It is, on this 9th day of April, 1957,

ORDERED that the thirty-day suspension heretofore imposed against defendant Shirley Siegel, t/a Club Miami, for premises 109 Beachway, Keansburg, shall commence at 2:00 a.m. May 6, 1957, and terminate at 2:00 a.m. June 5, 1957.

WILLIAM HOWE DAVIS
Director.

10. DISCIPLINARY PROCEEDINGS - ORDER FIXING EFFECTIVE DATES FOR SUSPENSION AMENDED.

In the Matter of Disciplinary Proceedings against)

SHIRLEY SIEGEL)
T/a CLUB MIAMI)
109 Beachway)
Keansburg, N. J.,)

O R D E R

Holder of Plenary Retail Consumption License C-36, issued by the Borough Council of the Borough of Keansburg.)

Saul C. Schutzman, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

It appearing from further investigation that defendant's premises are now open for business and that, for a period of at least six years last past, the premises have reopened for

business on or before April 1, and sufficient cause appearing for the granting of defendant's request that the effective dates of the suspension be advanced;

It is, on this 11th day of April, 1957,

ORDERED that the Order entered herein on April 9, 1957 be amended to read as follows:

"ORDERED that the thirty-day suspension heretofore imposed against defendant Shirley Siegel, t/a Club Miami, for premises 109 Beachway, Keansburg, shall commence at 2:00 a.m. April 20, 1957, and terminate at 2:00 a.m. May 20, 1957."

WILLIAM HOWE DAVIS
Director.

11. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - EMPLOYING BARTENDER WITHOUT IDENTIFICATION CARD REQUIRED BY LOCAL REGULATION - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LOUIS CIAMPA)
T/a LOU'S BAR)
165 Academy Street)
Jersey City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-120, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Louis Ciampa, Defendant-licensee, Pro se.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On Sunday, February 10, 1957, you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., one quart can of Bavarian Premium beer, at retail in its original container for consumption off your licensed premises, and allowed, permitted and suffered the removal of such alcoholic beverage from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

"2. On Sunday, February 10, 1957, you engaged and employed on your licensed premises an agent and bartender in connection with your licensed business, who had not been issued an identification card by the Department of Public Safety of the City of Jersey City, in conformity to Sections 13 and 14 of an ordinance adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950 and in violation of Section 15 of the aforementioned ordinance."

On Sunday, February 10, 1957 at about 1:05 p.m., an ABC agent entered the licensed premises and took a seat at the bar behind which stood a bartender serving three patrons.

At about 2:00 p.m., the agent observed John Black, a patron, enter the premises and ask the bartender for a quart can of Bavarian beer "to go". The bartender thereupon placed a quart can of said beer in a paper bag and handed it to the patron. Black then paid the bartender and left the premises with the beer. The agent followed Black to the street where he was joined by another ABC agent. Both agents then caught up with Black who admitted making the aforesaid purchase of beer. The agents, together with Black, returned to the licensed premises and identified themselves to the bartender, Thomas Brock, who denied the sale of the beer to Black.

The investigation of the case also discloses that the licensee, contrary to a local ordinance, employed the aforesaid bartender, Thomas Brock, of 121 McAdoo Avenue, Jersey City, who had not been issued an identification card by the Department of Public Safety of Jersey City.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days on Charge 1 (Re DiMattia, Bulletin 1141, Item 10), and for an additional five days on Charge 2 (Re Rudy & Joe's Bar, Inc., decided March 7, 1957 and not yet reported), making a total suspension of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 15th day of April, 1957,

ORDERED that Plenary Retail Consumption License C-120, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Louis Ciampa, t/a Lou's Bar, 165 Academy Street, Jersey City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. April 27, 1957, and terminating at 2:00 a.m. May 12, 1957.


William Howe Davis
Director.