

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

March 3, 1959

BULLETIN 1266

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THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
5800 S. UNIVERSITY AVENUE
CHICAGO, ILLINOIS 60637

1968

TO THE HONORABLE CHIEF OF BUREAU OF REVENUE
WASHINGTON, D. C.

SIR:

I have the honor to acknowledge the receipt of your letter of the 10th day of this month, and in reply to inform you that the same has been forwarded to the proper authorities for their consideration.

I am, Sir, very respectfully,
Your obedient servant,
[Signature]

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

March 3, 1959

BULLETIN 1266

DISCIPLINARY PROCEEDINGS - SALE TO INTOXICATED PERSONS - EMPLOYING UNQUALIFIED PERSON - FALSE STATEMENTS IN APPLICATION RE PRIOR RECORD - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA AND 5 FOR MITGATING CIRCUMSTANCES AS TO FALSE STATEMENTS.

In the Matter of Disciplinary Proceedings against

BOYSEN'S SUNSET TAVERN, INC.
t/a BOYSEN'S SUNSET TAVERN, INC.
Sunset Avenue
Madison Township
PO Old Bridge, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Madison.

Benjamin Kleinberg, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to the following charges:

"1. On Sunday, November 2, 1958, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons actually or apparently intoxicated, and allowed, permitted and suffered the consumption of such beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.

"2. On Sunday, November 2, 1958, and on divers dates prior thereto, you employed in and upon your licensed premises a person under the age of fifteen (15) years, and allowed, permitted and suffered the employment of such person in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 13.

"3. In your application filed with the Township Committee of the Township of Madison, dated May 23, 1958, and upon which you obtained your current plenary retail consumption license, you, while revealing in answer to Question No. 34 which asks: 'Have you or has any person mentioned in this application ever been convicted of any violation of the Alcoholic Beverage Law (R.S. Title 33) as amended and supplemented? If so, state details as to each conviction giving date and nature thereof and the court in which sentence was imposed.' and in answer to Question No. 41, which asks: 'Have you or has any person mentioned in this application ever had any interest, directly or indirectly, in any alcoholic beverage license or permit in New Jersey or any other state which was surrendered,

suspended, revoked or cancelled?' a suspension of your license in 1955, nevertheless, failed to disclose the accurate and full details thereof and suppressed the further material fact that your license for the 1957-58 period had been suspended for 30 days, effective September 3, 1957, for permitting a brawl and for a violation of the 'hours' regulations of the Township of Madison; in violation of R.S. 33:1-25."

On November 2, 1958, ABC agents were in defendant's licensed premises and observed two apparently intoxicated persons consuming alcoholic beverages at the bar. One of these patrons fell to the floor from his stool and, after being helped to his feet by a patron, was served a glass of beer by the barmaid. In addition, the agents saw the barmaid serve a drink of alcoholic beverages to a third patron who came staggering into the premises. The agents also observed a temporary male employee, under the age of fifteen, washing dishes in the kitchen (part of the licensed premises). The agents inspected the license application and it failed to particularize one suspension and totally failed to disclose another, as outlined in Charge 3.

By way of mitigation the attorney for the defendant has submitted a statement setting forth therein, among other things, that he prepared the defendant's license application (dated May 23, 1958); that he inadvertently failed to fully answer Question 41 therein; that at the time he was preparing several other applications for licensees and that he had no ulterior motive in not fully answering the question.

Defendant has a prior adjudicated record. Effective November 28, 1955, its license was suspended by this Division for forty-five days for (a) allowing immoral activity on the licensed premises; (b) allowing hostess activity on the licensed premises; (c) sale to an intoxicated person and (d) sale to minors (Re Boysen's Sunset Tavern, Inc., Bulletin 1090, Item 1). Effective September 3, 1957, its license was suspended by the local issuing authority for thirty days for (a) permitting a brawl on the licensed premises and (b) and (c) "hours" violations. Because of the similar violation which occurred within five years, the usual penalty of twenty days under Charge 1 (Re Joe's White Birch Bar, A Corp., Bulletin 1206, Item 9) will be doubled (cf. Re Sussman, Bulletin 1241, Item 5); ten days will be added for Charge 2 (Re Bogota Recreation, Inc., Bulletin 844, Item 3); ten days for Charge 3 (cf. Re Mitchell, Bulletin 1248, Item 3), and five days for the prior dissimilar violations within the past five years (Re Richman, Bulletin 1186, Item 10), making a total suspension of sixty-five days. Ten days will be remitted for the mitigating circumstances (as to Charge 3) and the plea entered herein, leaving a net suspension of fifty-five days.

Accordingly, it is, on this 29th day of January, 1959,

ORDERED that plenary retail consumption license C-2, issued by the Township Committee of the Township of Madison to Boysen's Sunset Tavern, Inc., t/a Boysen's Sunset Tavern, Inc., for premises on Sunset Avenue, Madison Township, be and the same is hereby suspended for fifty-five (55) days, commencing at 2 a.m. Tuesday, February 10, 1959, and terminating at 2 a.m. Monday, April 6, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PERIOD OF SUSPENSION - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 45 DAYS.

In the Matter of Disciplinary Proceedings against)

WILFRED S. KRAUS)
 t/a KRAUS SELF SERVICE FOOD & LIQUOR)
 695 Elm Street)
 Kearny, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-22, issued by the Mayor and Council of the Town of Kearny.)

 Richman & Berry, Esqs., by Grover C. Richman, Esq., Attorneys for Defendant-licensee.
 David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant has pleaded not guilty to the following charge:

'On July 30, 1958, during the suspension of your license by the Director of the Division of Alcoholic Beverage Control for a period of ten (10) days, commencing at 9:00 a.m., July 21, 1958 and terminating at 9:00 a.m., July 31, 1958, you allowed, permitted and suffered the sale and delivery of an alcoholic beverage in and upon your licensed premises; in violation of Rule 32 of State Regulation No. 20.'

"Claire A. Hall testified that at approximately 5:45 p.m. on July 30, 1958 she visited defendant's self-service market and purchased a number of items among which was a quart bottle of Seagram Seven Crown Whiskey for which she paid defendant \$5.90; that as she left the premises with the merchandise she was met on the outside by an ABC agent who took the bottle of whiskey and the sales receipt from her.

"Two ABC agents testified that they and the woman went into defendant's licensed premises and after identifying themselves and advising the defendant of the violation, the defendant exclaimed, 'Oh, my God! Shoot me!'

"At the hearing defendant testified that he did not sell the whiskey to Mrs. Hall and that the \$5.90 shown on the sales receipt was for the six pounds of ham, the amount he had agreed to charge her instead of the amount of \$5.94 which was the regular price therefor.

"I am not impressed with the explanation of defendant that the \$5.90 item on the sales receipt represented sale of ham and not of whiskey. I am satisfied after careful examination of the testimony of the witnesses herein, that defendant sold the bottle of whiskey to the woman on the day in question, and recommend that he be adjudged guilty of the charge preferred herein.

"Defendant has a prior adjudicated record. Effective May 14, 1954 defendant's license was suspended for eleven days by the local issuing authority for sale of alcoholic beverages to a minor. Again, effective July 21, 1958, defendant's license was suspended

for ten days by the State Director for sale of alcoholic beverages below the minimum consumer retail price. Re Kraus, Bulletin 1240, Item 3. Considering the past record of defendant occurring within the past five years and the serious nature of the instant violation, I recommend that defendant's license be suspended for a period of forty-five days."

Written exceptions to the Hearer's Report and written argument with reference thereto were filed with me by the attorney for the defendant pursuant to Rule 6 of State Regulation No. 16. Answering argument was filed by the attorney appearing for the Division.

Thereafter, I permitted oral argument to be presented in this matter. I have carefully examined the cases cited by the attorney for the Division relative to the length of suspension to be imposed for a violation of the type now under consideration. In Re Kirdzik, Bulletin 637, Item 2, the defendant's license was revoked when the facts disclosed that she had purchased alcoholic beverages during the suspension of the license, falsified the tax records with reference thereto, permitted alcoholic beverages to be served to her husband's employees and also served large quantities of liquor at a social function. In addition thereto, it was taken into consideration when imposing the revocation that during the time of the suspension for the aforesaid violations, the defendant also had a prior record occurring within a five-year period. In Re Caplan, Bulletin 1051, Item 2, also cited by the attorney appearing for the Division, I took into consideration that the sale of alcoholic beverages during the suspension of the license was the third offense which defendant committed within a period of less than five months.

In the present case the violation was for the sale of one bottle of alcoholic beverages during the suspension of his license. Furthermore, his previous record was not as serious as the prior records of the two licensees aforementioned. I have also considered mitigating circumstances presented by the defendant's attorney that the defendant is and has been suffering from illness during a period of approximately ten years. Under the circumstances, I shall concur in the Hearer's findings and conclusions and adopt his recommendation in this matter. I might add, however, that during the forthcoming suspension if the defendant permits the sale of alcoholic beverages or violates any other provision of the Alcoholic Beverage Law, a drastic penalty will be imposed.

Accordingly, it is, on this 29th day of January 1959,

ORDERED that plenary retail distribution license D-22, issued by the Mayor and Council of the Town of Kearny to Wilfred S. Kraus, t/a Kraus Self Service Food & Liquor, for premises 695 Elm Street, Kearny, be and the same is hereby suspended for a period of forty-five (45) days, commencing at 9:00 a.m., Monday, February 9, 1959 and terminating at 9:00 a.m., Thursday, March 26, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - HINDERING INVESTIGATION - MITIGATING CIRCUMSTANCES - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against JERRY SHEEHAN AND BENJAMIN ANDREACH t/a "SHEEHAN'S DUBLIN HOUSE" 69-75 Carr Avenue Keansburg, N. J.

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-32, issued by the Borough Council of the Borough of Keansburg.

William K. Miller, Esq., Attorney for Defendant-licensees.
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendants have pleaded not guilty to the following charges:

'1. On Saturday night, July 12, 1958, 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., Nancy ---, age 19 and Lillian ---, 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.

'2. During the early morning hours of Sunday, July 13, 1958 you, through Jerry Sheehan and agents, servants, employees and other persons in your behalf, failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation, inspection and examination at your licensed premises then and there being made by Investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of R.S. 33:1-35.'

"At the hearing herein Lillian --- testified as follows: She is twenty years of age, having been born on September 27, 1937. On the evening of July 12, 1958, she and two girl friends entered the defendants' licensed premises, took seats at the bar and she ordered from the bartender a beer which was served to her and which she consumed. In all, she ordered, was served with and drank about three glasses of beer. The unused portion of her last drink was seized as evidence by ABC agents. She had been there previously, at which time she was questioned as to her age and displayed a baptismal and birth certificate of a girl friend who was twenty-two years of age. She did not then, or on July 12, sign any written representation as to her age.

"A bartender employed by the licensees testified that he had previously served alcoholic beverages to Lillian on the basis of the two aforementioned certificates after he had displayed them to Mr. Sheehan (one of the licensees) and that he served her on

July 12 without further questioning; that he did not on any occasion require her to sign any representation of her age.

"There was presented evidence relating to the charge of sale and service to Nancy --- (the other person named in the charge) but that aspect has been eliminated from the case because of the refusal of such alleged minor who resides out of State to appear at the hearing despite the service upon her in this State of a subpoena to testify.

"ABC agents testified that they observed the sale, service and consumption of beer by Lillian as above related. Also, that they observed a five-man band entertaining. They further testified as follows: After the unconsumed portion of beer was seized from Lillian, they identified themselves and proceeded with Lillian, the licensees' manager and assistant manager, other females, and Jerry Sheehan (one of the licensees) to what is referred to as the package goods section of the premises. As the agents were questioning Lillian and the other females, Sheehan said, 'Don't tell these guys nothing. They are nobody.' The agents warned Sheehan that he was inviting a change of hindrance. Nevertheless, he conversed further with the females, the nature of which conversation the agents were unable to hear, despite the repeated admonition of the agents that he step away from the females and hold no conversation with them. As Lillian was being questioned by the agents, the manager interrupted by saying, 'I know the law. I used to be a cop. If you can't prove these girls are under twenty-one, they can nail you with false arrest.'

"One of the agents asked Sheehan to summon his employees to the package goods section so that they could be identified. He presented four members of the band and, when asked for the whereabouts of the fifth member, said he didn't know - 'he must have took off', and at the same time insisted that there were only four members of the band. It was subsequently developed that the fifth person whom the agents observed on the bandstand was a minor who thereafter applied to this Division for a permit to be employed with the band on defendants' licensed premises. He is a sixteen-year-old guitar-player who performed with the band on the night in question.

"The licensees engaged a four-man band and they insisted that the sixteen-year-old minor merely volunteered or was permitted by the band members to join them; that he was not actually in the licensees' employ. Mr. Sheehan denied that he interfered in any way whatsoever with the agents' investigation. He acknowledged that the minor was playing with the band. He claimed the agents asked how many men were up there (meaning the bandstand) and he told them four; that he did not tell them about the fifth man because he did not think it was necessary; he did not consider that the fifth man was working there even though the agents pointed out to him that they observed five men on the bandstand.

"Benjamin Andreach (the other licensee) also acknowledged that he had observed the guitar-player on the bandstand. It may be significant that, although Sheehan claimed that he considered the guitar-player to be an adult, when he saw this minor later at night, after they closed, he advised the leader of the band to send the boy to this Division to get an employment permit. In any event, the evidence establishes that the licensees knew that the minor was performing and technically, under ABC precedents, he was their employee. However, the minor's status is not a significant factor, as the basis for the hindering charge rests upon the failure of the licensees to produce him or reveal his identity -- employee or not.

"The circumstances under which the sale of alcoholic beverages

was made to Lillian may be considered in mitigation but does not present a complete defense to the charge. I recommend a finding of guilt as to Charge 1 insofar as the charge refers to the minor Lillian.

"The hindering charge basically rests upon three incidents -- the remarks to the females by Sheehan while they were being questioned by the agents; the manager's remarks to the same effect to the agents, and the attempt to conceal the identity of the guitar-player. While not aggravated misconduct, nevertheless it did have the effect of impeding the investigation by the agents and at least constituted a failure to facilitate their investigation.

"Defendants have a prior adjudicated record. Their license was suspended for five days by the local issuing authority effective April 3, 1944, for an 'hours' violation. This dissimilar violation occurring over ten years ago should not be considered in imposing penalty. Jerry Sheehan (one of the partners holding the license presently involved) had his license for other premises suspended by the local issuing authority for five days and thirty days, respectively, effective April 18, 1955, and October 22, 1955, for sales to minors, and had such license suspended by the Director for fifty-five days by order dated November 13, 1956 (Bulletin 1145, Item 4) for sales to minors.

"I therefore recommend that, balancing the extremely mitigating circumstances present in the instant case, including the licensees' clear record since 1944, against the previous record of one of the partners herein for three similar violations at other premises within the past five years, although having an otherwise clear record since 1934 at such other premises, the defendants' license be suspended for fifteen days on Charge 1 and for an additional ten days for the violation set forth in Charge 2 (Re Rosner & Greenwald, Bulletin 1244, Item 5), making a total suspension of twenty-five days."

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 the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 26th day of January 1959,

ORDERED that plenary retail consumption license C-32, issued by the Borough Council of the Borough of Keansburg to Jerry Sheehan and Benjamin Andreach, t/a "Sheehan's Dublin House", for premises 69-75 Carr Avenue, Keansburg, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m., Monday, February 2, 1959 and terminating at 2:00 a.m., Friday, February 27, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - EFFECTIVE DATES OF SUSPENSION TO BE FIXED BY SUBSEQUENT ORDER - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against

R.T.B., INC.
N.W. Cor. of Ocean and
Farragut Avenues
Seaside Park, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Mayor and Borough Council of the Borough of Seaside Park.

Defendant
783-7

Kushinsky & Muccifori, Esqs., by Thomas J. Muccifori, Esq.,
Attorneys for Defendant-licensee.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charge:

'On the night of Friday, August 8 and during the early morning of Saturday August 9, 1958 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., Lynn ---, age 16, Richard ---, age 17 and James ---, age 18 and you 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 two ABC agents, hereinafter referred to as Agents D and N, testified that on August 8, 1958, at about 11:00 p.m., they entered defendant's licensed premises; that it contained a service bar, two large U-shaped bars and a large dining area that was occupied by about 150 patrons seated at tables; that at about 11:45 p.m. they observed Richard, while 'table hopping' in the dining area, consume a glass of beer he poured from a bottle he had picked up from one of the tables; that at about 12:30 a.m. they observed Richard, together with Lynn, depart from the premises and, at about 1:00 a.m., return to the same; that at about 1:10 a.m. Richard and Lynn took seats at a table in the rear of the dining area directly in front of where they (the agents) were seated at one of the bars. The agents further testified that at about 1:20 a.m. a waiter approached Richard and Lynn at their table, cleared the same of empty glasses, conversed with Richard, accepted some money from him and then proceeded to the service bar; that, shortly thereafter, the waiter returned with a tray of drinks, some of which he placed on a nearby table occupied by James and four adults and two of which he served to Richard and Lynn; that after observing Richard and Lynn each consume part of their drinks, Agent D identified himself to them while Agent N stood nearby; that Richard stated he was 17 years old; that his drink was a mixture of Seagram's Seven and ginger ale or 7-Up and that Lynn stated that she was 16 years old and she was drinking a Tom Collins.

The agents also testified that Agent D seized said drinks from Richard and Lynn and poured the same into separate bottles; that Richard and Lynn accompanied them into the office of the licensee where Richard, in the presence of Thomas Maione (an officer and a holder of 33-1/3 per cent of the stock of the corporate-licensee) stated that he consumed part of the seized drink but that he did not order the same and that Mr. Maione thereupon stated 'It doesn't make any difference, it still is a violation'. (Mr. Maione was present at the hearing and was not called to testify.)

"Agent N, in addition, testified that while Agent D was questioning Richard and Lynn, he observed James take a sip from a glass, the contents of which appeared to be an alcoholic beverage; that James then pushed the glass away from him; that he questioned James, who stated he was 17 years old; that he thought the drink was a mixture of rum and coca cola and that he (Agent N) thereupon seized the glass and emptied its contents into a bottle.

"Testifying on behalf of the Division, James stated that he is 18 years of age. Testifying for the defendant, he stated that he was sitting at a table near the one occupied by Richard; that he was waiting to speak to Richard and, in the interim, picked up a drink which was in front of him on his table; that he thought it was coca cola; that he raised the glass to his lips, took a sip therefrom, realized for the first time it contained alcohol and pushed it away; that he did not order or pay for the drink and that he was not present when it was served.

"Testifying on behalf of the Division, Richard stated that he is 17 years of age. Testifying for the defendant, he stated that he did not order, pay for or consume any alcoholic beverages as charged herein; that on the alleged dates of August 8 and 9, 1958 Lynn and he were attending a party at the licensed premises; that at about 1:05 a.m. they left the premises; that at about 1:20 a.m. they returned to the same and took seats at the table which they had previously occupied; that when Agent D approached him there was a drink in front of him and one in front of Lynn; that he did not see the waiter bring these drinks to the table; that the table contained some pocketbooks, empty glasses and half-filled glasses; that there were two other boys at the table and that the agent took his drink out of his hand.

"On cross-examination, Richard stated that he told Agent D that his drink contained Seagram's Seven with 7-Up or ginger ale; that he had no reason for making this statement; that it was just a guess on his part; that as far as he knew he did not consume any part of the drink; that he did not know if he had put the glass to his lips; that the drink was in front of him for five minutes; that he could not say that he did not taste any of it; that the money which he gave the waiter as testified by Agent D was a gratuity which he had overlooked giving to the waiter for serving his group the last round of drinks (non-alcoholic beverages) prior to his leaving the premises as aforementioned.

"A report of the chemical analysis of the seized drinks (made by the Division's chemist) was admitted into evidence and showed the following: Richard's drink contained whiskey, carbonated water and a lemon flavor; Lynn's drink contained gin, carbonated water and a lemon flavor and James' drink contained rum, carbonated water and cola flavor.

"This case presents a conflict between the testimony of the agents and the minors, Richard and James. I have carefully reviewed all of the testimony in the case. I find that the agents

made positive statements in support of the charge herein and that the testimony of Richard in denying the same was uncertain and contained inconsistencies. On direct examination Richard denied consuming any alcoholic beverages on the dates alleged herein and on cross-examination stated that he did not know if he had consumed any part of his drink and that he could not say that he did not taste any of it. James admitted consuming a very small portion of his drink. I am unable to find any inconsistencies or defects in the testimony of the agents and cannot conceive of any reason why they would deliberately give any false testimony.

"I am satisfied that the Division has amply proven the defendant guilty of the charge herein except that part of the same which refers to Lynn. Under the circumstances, it is recommended that the defendant be found guilty of so much of the charge as refers to Richard and James and that it be dismissed as to that part which refers to Lynn because of the insufficient proof of her minority. Prior to the hearing Lynn moved to another State and, hence, could not be subpoenaed to appear at the hearing.

"Defendant has no prior adjudicated record. However, the license of Thomas Maione (secretary and treasurer and 33-1/3 per cent stockholder of the above corporate licensee), trading as Tom's Tavern, Route 25 near Ward Avenue, Bordentown, was suspended effective February 28, 1944 by the then Commissioner of Alcoholic Beverage Control for twenty-five days for sale to minors and an 'hours' violation (Re Maione, Bulletin 607, Item 4), and effective April 12, 1944 his license was again suspended for six days by the local municipal authority for sale to minors. Inasmuch as these two violations occurred more than ten years ago, it is recommended that they be not considered in fixing the penalty herein. Cf. Re Clendenny Tavern, Inc., Bulletin 1147, Item 6. It is further recommended that an order be entered providing that defendant's license be suspended on the charge herein for a period of twenty-days. Re Circle Bar & Grill, Inc., Bulletin 1237, Item 3."

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 herein, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Investigation discloses that defendant's business is conducted on a seasonal basis and that the premises are now 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 1959 season. Cf. Re Edelson, Bulletin 1160, Item 3.

Accordingly, it is, on this 20th day of January, 1959,

ORDERED that plenary retail consumption license C-1, issued by the Mayor and Borough Council of the Borough of Seaside Park to R.T.B., Inc., for premises on N. W. Cor. of Ocean and Farragut Avenues, Seaside Park, be and the same is hereby suspended for a period of twenty (20) days, the time to be fixed by subsequent order as aforesaid.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against

MYRTLE TAVERN, INC.
 160 Myrtle Avenue
 Jersey City 5, N. J.

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption License C-494, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

 James F. McGovern, Jr., Esq., Attorney for Defendant-licensee.
 Dora P. Rothschild, Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

It appears from the reports herein that at 1:15, 1:25 and 1:27 p.m., Sunday, November 9, 1958, ABC agents who were in defendant's licensed premises observed different male patrons take cans of beer from a cooler, place them in a paper bag and carry them from the premises; that at about 1:40 p.m. one of the agents purchased a pint of whiskey to take out; that the agent noted that the sale prices of the beverages were not rung up on the register; that they left the premises with their purchase; that they returned immediately thereafter and identified themselves to John McTague (president and treasurer of the corporate licensee), who orally admitted the sales of canned beer and the pint of whiskey for off-premises consumption during prohibited hours.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of fifteen days and remit five days for the plea entered herein, leaving a net suspension of ten days. Re Canzano, Inc., Bulletin 1222, Item 8.

Accordingly, it is, on this 15th day of January 1959,

ORDERED that plenary retail consumption license C-494, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Myrtle Tavern, Inc., for premises 160 Myrtle Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, January 26, 1959, and terminating at 2:00 a.m., Thursday, February 5, 1959.

WILLIAM HOWE DAVIS
 DIRECTOR

6. DISCIPLINARY PROCEEDINGS - HOSTESSES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA - SPECIAL PERMIT SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against

JOHN CASAMASSIMO
701 Paterson Plank Road
Union City, N. J.

Holder of Plenary Retail Consumption License C-82, issued by the Board of Commissioners of the City of Union City.

CONCLUSIONS AND ORDER

In the Matter of Disciplinary Proceedings against

JOHN CASAMASSIMO
701 Paterson Plank Road
Union City, N. J.

Holder of Special Permit E No. 180, issued by the Director of the Division of Alcoholic Beverage Control.

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On Friday night, December 5 and early Saturday morning December 6, 1958, you allowed, permitted and suffered three females, viz., Cherie Stuart, May Rudomin and Shirley Hodges, 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."

On the dates alleged in the charge herein, ABC agents were on defendant's licensed premises and observed three females, employed as entertainers, accept drinks from and at the expense of various patrons. One of the entertainers accepted drinks from and at the expense of one of the agents.

Defendant was also required to show cause why its Special Permit E No. 180 authorizing the employment of the aforementioned female entertainers (non-residents) should not be cancelled, suspended or revoked.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days. Re Moniello and Onnen, Bulletin 1248, Item 11. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days. Under the circumstances I shall also suspend defendant's Special Permit for fifteen days.

Accordingly, it is, on this 21st day of January, 1959,

ORDERED that plenary retail consumption license C-82,

issued by the Board of Commissioners of the City of Union City to John Casamassimo, for premises 701 Paterson Plank Road, Union City, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m., Wednesday, January 28, 1959, and terminating at 3:00 a.m., Thursday, February 12, 1959; and it is further

ORDERED that the defendant's Special Permit E No. 180 shall be suspended for fifteen (15) days, which penalty shall run concurrently with the aforesaid suspension of defendant's license.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - STATE BEVERAGE DISTRIBUTOR'S LICENSE - SALE WITHOUT PROPER INVOICES - ACCEPTING ORDERS AT OTHER THAN LICENSED PREMISES - SOLICITING FROM HOUSE TO HOUSE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ARK BEVERAGES, INC.)
15-17 Hackensack Avenue)
Ridgefield Park, N. J.)

CONCLUSIONS AND ORDER

Holder of State Beverage Distributor's License SBD-17, issued by the Division of Alcoholic beverage control of the State of New Jersey.)

Rudolph Markowitz, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On divers days during the months of June and July 1958, you delivered and transported alcoholic beverages in vehicles in and about the Borough of Hopatcong, N. J. without the drivers thereof having in their possession either (1) bona fide authentic and accurate delivery slips, invoices, manifests, waybills and similar documents or (2) route cards on standing orders, in manner and form and as required by Rule 4 of State Regulation No. 17; in violation of said Rule 4 of State Regulation No. 17.

"2. On divers days during the months of June and July 1958, you sold alcoholic beverages not pursuant to and within the terms of your state beverage distributor's license, contrary to R.S. 33:1-26 and R.S. 33:1-1(w) in that you accepted orders for alcoholic beverages at premises other than your licensed premises, viz., in and at various places and locations in the Borough of Hopatcong; in violation of R.S. 33:1-2.

"3. On divers days during the months of June and July 1958, you, directly and indirectly, solicited from house to house by personal visits the purchase of alcoholic beverages and allowed, permitted and suffered such solicitation; in violation of Rule 3 of State Regulation No. 20."

The investigation in this case was initiated after receipt of a message from the Hopatcong Police Department wherein it was stated that two of defendant's officers had been stopped and questioned about their liquor license.

During the course of this investigation Robert Miller, Secretary-Treasurer of defendant corporation, gave to ABC agents a statement wherein he said that one of their customers who resides in Garfield and has a summer residence at Lake Hopatcong "told us to come up and service them" and that this customer gave them the names of other people who had summer homes nearby. Mr. Miller admitted that subsequently, during June and July 1958, they would start out with a load of beer on the truck not knowing who was to get deliveries until they arrived in the vicinity of Lake Hopatcong and that on the day they were stopped by the police officer they had five or six cases extra on the truck "in case someone wanted to buy a case of beer." He denied that they had solicited beer business from house to house, stating that some people would buy beer when the driver solicited them to purchase soda. He further stated that in these cases delivery tickets for beer were prepared at the time of sale. During the investigation ABC agents interviewed seven persons residing in the vicinity of Lake Hopatcong and whose names appeared on defendant's route cards. One customer stated that he had purchased a case of beer after a driver of defendant's truck asked him if he wanted to buy soda or beer. Other customers said that, when they saw the truck in the neighborhood, they would go out and buy beer from the truck. All of these customers stated that they had not placed orders for the beer prior to the time they purchased at home or at the truck. An examination of defendant's route card turned over to ABC agents discloses that many cards fail to contain the brand, size of container and quantity of each item of beer being delivered or transported.

As to the holders of State Beverage Distributor's licenses, Bulletin 845, Item 6, provides, in effect, that the requirements of Rule 3 of State Regulation No. 17 would be met if the operator or person in charge of the truck had a route card for each customer with a standing order. These route cards must be specific with reference to the name, address and standing order of the customer and must provide space for (1) the date of delivery, (2) the quantity delivered, (3) size of the container delivered, (4) brand delivered and (5) price charged. As to merchandise delivered to customers on special order, such merchandise must be accompanied by a separate bona fide invoice or manifest stating the name of the purchaser and the kind and quantity of merchandise being delivered to such special order purchaser. In addition there must be carried on the vehicle while delivering to consumers a loading list setting forth the total quantity of alcoholic beverages loaded for delivery, indicating as to each brand loaded the total quantity of each size of container. Re Union Beverages, Inc., Bulletin 1101, Item 2. Peddling, bartering or other sale of alcoholic beverages from a vehicle are prohibited by Rule 3 of State Regulation No. 17 and house-to-house solicitation is prohibited by Rule 3 of State Regulation No. 20.

Defendant has no prior record. It is alleged that the officers of the corporation had no intention of violating the law or regulations but ignorance of the law or regulations cannot be accepted as an excuse. As mitigating circumstances, it does appear that the officers of the corporation cooperated fully in the investigation and that the evidence as to Charge 3 is meager. Under all the circumstances I shall suspend defendant's license for fifteen days. Cf. Re Glassman, Bulletin 875, Item 8; Re Union Beverages, Inc., *supra*. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 22nd day of January, 1959,

ORDERED that State Beverage Distributor's License SBD-17, issued by the Division of Alcoholic Beverage Control of the State of New Jersey to Ark Beverages, Inc., for premises 15-17 Hackensack Avenue, Ridgefield Park, be and the same is hereby suspended for ten (10) days, commencing at 7 a.m. Monday, February 9, 1959, and terminating at 7 a.m. Thursday, February 19, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE BY CLUB LICENSEE FOR OFF-PREMISES CONSUMPTION - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

CIRCOLO PROGRESSIVO CAPOSELESE, INC.
208 Bloomfield Avenue
Newark, New Jersey

CONCLUSIONS
AND ORDER

Holder of Club License CB-40, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Defendant-licensee, by Jerry Spatola, President.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to the following charges:

"1. On divers days during the months of June, July, August and September 1958, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of bottles of various kinds and brands of alcoholic beverages except for consumption on your licensed premises; in violation of Rule 9 of State Regulation No. 7.

"2. On divers days during the months of June, July, August and September 1958, you sold at retail bottles of various kinds and brands of alcoholic beverages at less than the prices thereof listed in the then currently effective Minimum Consumer Resale Price List published by the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30."

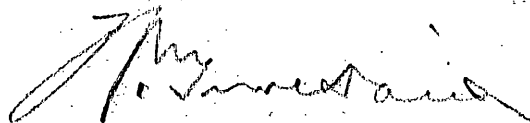
During the course of an investigation of defendant's licensed premises, it was ascertained that on days during the months mentioned in the aforesaid charges, alcoholic beverages in original containers for off-premises consumption were sold to various members of the club. Furthermore, the members purchased said beverages below the minimum price listed in the then currently effective Minimum Consumer Resale Price List.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of twenty-five days for the instant violations. Cf. Re Italian American Columbian Relief Association, Bulletin 998, Item 3. Five days will be remitted

for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 2nd day of February 1959,

ORDERED that Club License CB-40, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark, to Circolo Progressivo Caposelese, Inc., for premises 208 Bloomfield Avenue, Newark, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m., Tuesday, February 10, 1959 and terminating at 2:00 a.m., Monday, March 2, 1959.



William Howe Davis
Director