

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

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BULLETIN 1310

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area is adequately served, and (4) the action of respondent Board was an abuse of its discretion.

"As to (1): The pertinent portion of Section 5 of Ordinance K-1299 (as amended in 1941) provides:

'No Plenary Retail Distribution License, excepting renewals and transfers from person to person, shall be granted for or transferred to any premises the entrance of which is within the area of a circle having a radius of seven hundred and fifty (750) feet, and having as its central point the entrance of an existing licensed premises covered by a Plenary Retail Distribution License. ***'

"There is a further provision in said Section concerning a transfer to premises within 750 feet of the premises previously licensed which does not apply to this case because the distance between 178 Newark Avenue and 172-174 Coles Street is, at least, one-half mile. The question, therefore, is whether the entrance to the premises at 172-174 Coles Street is within the area of a circle having a radius of 750 feet and having as its central point the entrance to Sidoroff's premises at 265 - 8th Street (the nearest existing licensed premises covered by a plenary retail distribution license).

"The evidence discloses that the Niebancks own the property on the northeast corner of 9th Street and Coles Street, officially designated as 'Lot L, Block 322.' The measurements of the lot are 19.90 feet on 9th Street and 50 feet on Coles Street. There is a three-story brick building on the lot with a store on the ground floor and apartments on the upper floors. The entrance to the store is on 9th Street and the entrance to the apartments is through a door and hallway on the Coles Street side of the building. The evidence is not clear as to street numbers, but I am satisfied (as appears from Page 10 of hearing below dated March 18, 1959) that the building has a double number, namely, 290 - 9th Street (for the store) and 174 Coles Street (for the apartments). On the same lot and adjoining the three-story building is a one-story brick building, originally used as a garage. The entrance to the garage was on Coles Street. Prior to the hearings below, plans and application for a permit were filed by the Niebancks with the Superintendent of Buildings of Jersey City for alterations to the garage and part of the store, and on February 18, 1959, the Superintendent of Buildings issued the necessary permit for such work. It is on this portion of their property that the Niebancks intend to operate the licensed premises and the plans show that the entrance to the licensed premises will be on Coles Street to the north of the door and hallway leading to the upper apartments. I conclude that, since it is planned to include as part of the licensed premises a part of the store to the south of said door and hallway, the premises for which the transfer was sought is properly designated as 172-174 Coles Street. At the hearing below the attorneys for appellants contended that there would be an entrance to the licensed premises through the store at 290 - 9th Street, and it is admitted that this entrance is within a radius of 750 feet of the entrance to Sidoroff's premises at 265 - 8th Street. If this contention were correct, the transfer could not be granted in violation of the terms of the ordinance. Bachman v. Phillipsburg, 68 N.J.L. 552 (Sup. Ct. 1902); Roberts v. Long Branch et al., Bulletin 1010, Item 2; Union County Retail Liquor Stores Assn. v. Elizabeth et al., Bulletin 1154, Item 1. However, the original plans filed with the Superintendent of Buildings disclose that the only entrance to the licensed premises

will be on Coles Street in the northerly part of the former garage. Any doubt on this question has been removed because amended plans, filed with the Superintendent of Buildings after the hearing below, disclose that there will be a solid wall between the licensed premises and the store (now used for the storage of groceries by the Niebancks who operate a grocery store nearby). As shown by separate surveys submitted in evidence by the Niebancks and appellant Sidoroff, the entrance to the licensed premises will not be within a radius of 750 feet of the entrance to Sidoroff's premises. Hence appellants have failed to establish that the transfer was granted in violation of Section 5 of Ordinance K-1299.

"As to (2): Respondent Board held hearings on the application on March 3, 1959, and March 18, 1959. There was no transcript of the evidence taken at the first hearing but a transcript of evidence taken at the second hearing was introduced into evidence herein. This transcript contains 35 pages and consists principally of legal argument. At the second hearing the attorney for Middaugh and Ruth argued at length that the granting of the transfer would cause his clients to lose business. Testimony as to this alleged loss was fully presented by Dennis Middaugh at the hearing herein. It appears that respondent Board conducted proper hearings. In any event, the appeal herein was heard de novo with full opportunity for counsel to present testimony under oath and to examine and cross-examine witnesses. Rokay Wines & Liquors, Inc. v. Passaic, Bulletin 1198, Item 1.

"As to (3) and (4): The evidence discloses that there are four taverns (including the premises of Middaugh and Ruth) and one package store (the premises of Sidoroff) within three blocks of the corner of 9th and Coles Streets. The number of licensed premises to be permitted in any particular area is a matter confided to the sound discretion of the issuing authority. De Capua v. Ocean, Bulletin 941, Item 1. In cases of the kind under consideration, the Director's function is to determine whether reasonable cause exists for the issuing authority's opinion and, if so, to affirm. Triangle Corporation et al. v. Camden et al., Bulletin 1276, Item 1, and cases therein cited. I am satisfied that proper consideration was given by the members of respondent Board on the application for transfer and that appellants have failed to sustain the burden of proof in establishing that the members of said Board abused their discretion. Biscamp v. Teaneck, 5 N.J. Super. 172, at 174 (App. Div. 1949); Bertelli et al. v. Clifton et al., Bulletin 1275, Item 1; DeStefano et al. v. Jersey City et al., Bulletin 1289, Item 4.

"After considering all the evidence and the briefs filed herein, I recommend that an order be entered affirming the action of respondent Board and dismissing the appeal."

No exceptions to the Hearer's Report were filed within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the evidence, exhibits and briefs herein, I concur in the findings and conclusions of the Hearer which I hereby adopt as my conclusions herein. However, the license which is the subject of this appeal expired by its terms at midnight June 30, 1959. The records of this Division show that respondent Municipal Board issued a renewal of License D-9 for the 1959-60 licensing year to Eagle Liquor Stores, Inc., for 178 Newark Avenue. Under the circumstances, no effective order can be entered herein. This opinion, therefore, is merely advisory and dispositive of the issues raised herein in the event that respondents Arnold F. Niebanck and Henry K. Niebanck file with respondent Board during the current licensing year an application for transfer of License D-9, as renewed, to themselves and to their premises at 172-174 Coles Street, Jersey City.

Dated: October 14, 1959

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SOLICITOR'S PERMIT - WAREHOUSING WITH INTENT TO SELL - UNLAWFUL TRANSPORTATION - SALES BEYOND TERMS OF PERMIT - FURNISHING REBATES - HINDERING INVESTIGATION - PERMIT SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary Proceedings against

SAMUEL LINKY
1503 - 4th Avenue
Asbury Park, N. J.

CONCLUSIONS
AND ORDER

Holder of Unlimited Solicitor's Permit No. 3276, issued by the Director of the Division of Alcoholic Beverage Control.

Green and Yanoff, Esqs., by H. Kermit Green, Esq., Attorneys for Defendant-permittee.
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant, solicitor for Galsworthy, Inc., Wholesaler, has pleaded non vult to the following charges:

- "1. On March 24, 1959 and for several years prior thereto you warehoused and possessed with intent to sell alcoholic beverages not pursuant to and within the terms of any license or as otherwise expressly authorized under the Alcoholic Beverage Law, contrary to R.S. 33:1-2; in violation of R.S. 33:1-50.
- "2. On numerous occasions during 1959, 1958 and prior thereto you transported alcoholic beverages not pursuant to and within the terms of any license or as otherwise expressly authorized under the Alcoholic Beverage Law, in that you transported numerous cases and bottles of various brands of alcoholic beverages from various retail licensed premises to your home and garage at 1503 - 4th Avenue, Asbury Park, and from your home and garage to various retail licensed premises, in vehicles for which transportation insignia had been issued to Galsworthy, Inc., such transportation not being authorized by that insignia or by any other license or permit or by any provision of the Alcoholic Beverage Law, contrary to R.S. 33:1-2; in violation of R.S. 33:1-50.
- "3. On numerous occasions during 1959, 1958 and prior thereto you sold alcoholic beverages not pursuant to and within the terms of a license in that, without holding any license or permit authorizing such action, you made numerous sales of various brands of alcoholic beverages from your own personal stock, contrary to R.S. 33:1-2; in violation of R.S. 33:1-50.
- "4. On numerous occasions during 1959, 1958 and prior thereto you, the holder of a solicitor's permit, offered for sale and solicited orders for the purchase or sale of alcoholic beverages otherwise than to the extent duly allowed and permitted by law and by the New Jersey license of your employer, in that you

offered for sale and solicited orders for sale of alcoholic beverages from your own personal stock rather than on behalf of Galsworthy, Inc., the wholesaler-vendor represented by you and designated in your permit, contrary to Rule 2 of State Regulation No. 14; in violation of Rule 5 of State Regulation No. 14.

- "5. On numerous occasions during 1959, 1958 and prior thereto you knowingly aided and abetted the unwitting sale of alcoholic beverages by Galsworthy, Inc., holder of a plenary wholesale license, to yourself, a person not a licensed retailer or wholesaler, contrary to the terms of its license as defined by R.S. 33:1-11(1), in that you purchased alcoholic beverages for yourself from said wholesaler by falsely representing that such beverages had been ordered by and on behalf of various retail licensees; in violation of R.S. 33:1-52.
- "6. On various occasions during 1959, 1958 and prior thereto you, the holder of a solicitor's permit and employed by Galsworthy, Inc., wholesaler of alcoholic beverages other than malt alcoholic beverages, furnished directly or indirectly to various retailers prohibited gifts, rebates, allowances of money and things of value and other discounts and inducements in that you (a) furnished them advances of money and prohibited rebates and credit and (b) accepted return of alcoholic beverages other than as allowed by Rule 12 of State Regulation No. 34; in violation of Rule 3 of State Regulation No. 35.
- "7. On numerous occasions during 1959, 1958 and prior thereto you engaged in conduct prohibited to your employer by the Alcoholic Beverage Law and Regulations adopted thereunder, in that you (a) furnished advances of money and prohibited rebates and credit to retailers, some of whom were then on the Default List published by the Director of the Division of Alcoholic Beverage Control, and (b) accepted return of merchandise from retailers other than as allowed by Rule 12 of State Regulation No. 34; in violation of Rule 12 of State Regulation No. 14.
- "8. On March 24 and May 29, 1959 and on various other occasions during March, April and May of that year, while agents of this Division were investigating various alleged violations of the Alcoholic Beverage Law and Regulations, including (a) unlawful storage, sale and transportation of alcoholic beverages and (b) prohibited gifts, rebates, discounts, allowances of money and other things of value, you failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation; in violation of R.S. 33:1-35."

It appears from an examination of the data obtained by ABC agents during an extensive investigation of defendant's activities for the years 1959, 1958, and other times prior thereto, that defendant had employed various unlawful means of operation while holder of an unlimited solicitor's permit. He had stored large quantities of alcoholic beverages in his garage and home which were sold from time to time to various retail licensees. The transportation insignia on the motor vehicle used to transport the aforesaid liquor had been issued to defendant's employer. Quantities of the alcoholic beverages were obtained by defendant for himself by falsely representing to his employer that such beverages had been ordered by various retail licensees. The purchase of the alcoholic beverages from the employer and the sale thereof to retail licensees in the manner described violates the Alcoholic Beverage Law or Division regulations.

A number of cancelled checks (many in amounts of several hundred dollars and one in the amount of one thousand dollars) found by the agents in retail licensed premises had been cashed by defendant. Some of these checks were identified as reimbursement to defendant for monies he had advanced to retailers to pay liquor bills. Check-cashing and advancing money to retailers constitutes a prohibited thing of value and inducement. Re Hough, Bulletin 1290, Item 2. Furthermore, records in defendant's possession and cancelled checks issued by him indicate that defendant gave 2% discounts to several retailers on liquor purchases, which constitutes a prohibited thing of value. Re Hough, supra. It further appears that one of the retailers for whom checks were cashed and to whom money was advanced to pay liquor bills was, at the time, on the default list published by the Director of the Division of Alcoholic Beverage Control.

On one occasion, when the agents asked permission to examine a number of order slips which were observed lying on the front seat of his car, the defendant entered the car, picked up the slips and proceeded to destroy them. Again, while the agents were waiting for the arrival of the truck to transfer the liquor to a warehouse, the defendant surreptitiously removed some of the cases of alcoholic beverages to his home.

It is questionable whether defendant is a proper person to be associated with the alcoholic beverage industry. His method of operation and his attitude at times during the investigation indicated a total lack of appreciation of his responsibilities as a permittee. However, I cannot altogether ignore the fact that defendant has been a solicitor for many years and, though possibly undeserving, I shall give him another opportunity to mend his ways and prove himself worthy of holding a solicitor's permit.

Under the facts and circumstances herein, and taking into consideration that defendant has no prior adjudicated record, I shall suspend defendant's permit for a period of one hundred eighty days.

Accordingly, it is, on this 19th day of October, 1959,

ORDERED that unlimited solicitor's permit No. 3276, issued by the Director of the Division of Alcoholic Beverage Control to Samuel Linky, 1503 - 4th Avenue, Asbury Park, be and the same is hereby suspended for one hundred eighty (180) days, commencing at 9 a.m. Monday, October 26, 1959, and terminating at 9 a.m. Saturday, April 23, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - RETAILER PURCHASING ALCOHOLIC BEVERAGES FROM OTHER THAN NEW JERSEY MANUFACTURER OR WHOLESALER - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

SCHULTZ & FRIEDMAN PHARMACIES, INC. t/a "DEAL PHARMACY" 256 Norwood Avenue Ocean Township PO Deal, N. J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-3, issued by the Township Committee of Ocean Township.

Stout and O'Hagan, Esqs., by Sidney Hertz, Esq., Attorneys for Defendant-licensee. William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it purchased and obtained alcoholic beverages from a person who was not the holder of any New Jersey manufacturer's or wholesaler's license, in violation of Rule 15 of State Regulation No. 20.

On June 9, 1958, defendant purchased a quantity of alcoholic beverages from Samuel Linky, who was not the holder of an alcoholic beverage license or special permit permitting such sale. Carl Schultz, treasurer of defendant-corporation, told the ABC agents that he did not know where Linky had obtained the liquor.

It is the duty of a retail liquor licensee to ascertain whether the person from whom he purchases alcoholic beverages holds the proper license or permit to make sale thereof.

Defendant has a prior adjudicated record. Effective November 25, 1941, its license was suspended for two days by the local issuing authority for an "hours" violation. Inasmuch as the prior dissimilar violation happened more than five years ago, it will not be considered in fixing the penalty to be imposed herein. I shall suspend defendant's license for a minimum period of fifteen days (Re Pulek, Bulletin 968, Item 3). Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 19th day of October 1959,

ORDERED that Plenary Retail Distribution License D-3 issued by the Township Committee of Ocean Township to Schultz & Friedman Pharmacies, Inc., t/a "Deal Pharmacy", for premises 256 Norwood Avenue, Ocean Township, be and the same is hereby suspended for ten (10) days commencing at 9:00 a.m., Monday, October 26, 1959 and terminating at 9:00 a.m., Thursday, November 5, 1959.

WILLIAM HOWE DAVIS DIRECTOR

4. DISCIPLINARY PROCEEDINGS - OBSCENE MATTER - CONTRACEPTIVES -
RETAILER PURCHASING ALCOHOLIC BEVERAGES FROM OTHER THAN NEW
JERSEY MANUFACTURER OR WHOLESALER - LICENSE SUSPENDED FOR 30
DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ROSE MILES - ADELINE RICHMOND)
t/a HERITAGE LIQUORS)
7 Broad Street)
Red Bank, N. J.)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Distribution License D-14, issued by the Mayor and Council of the Borough of Red Bank.)

Abramoff & Apy, Esqs., by Milton M. Abrameff, Esq., Attorneys
for Defendant-licensees.

William F. Weed, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On April 2, 1959 you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing obscene, indecent and disgusting pictures and other such representations, viz., three magazines containing pictures of nude or nearly nude males and females, some in suggestive poses; in violation of Rule 17 of State Regulation No. 20.
- "2. On the aforesaid occasion you, not operating a bona fide pharmacy, possessed a prophylactic against venereal disease and a contraceptive or contraceptive device in and upon your licensed premises; in violation of Rule 9 of State Regulation No. 20.
- "3. On an occasion in or about 1958 you, a New Jersey retail licensee, without authority of special permit, purchased and obtained alcoholic beverages from a person who was not the holder of any New Jersey manufacturer's or wholesaler's license, in that you purchased and obtained alcoholic beverages from Samuel Linky, who did not hold either of the above types of licenses; your obtaining alcoholic beverages from such person being in violation of Rule 15 of State Regulation No. 20."

During an investigation of the transactions of a solicitor with retail liquor licensees, it was disclosed that defendants had made a purchase of alcoholic beverages from the solicitor in question, which merchandise had not been supplied by the solicitor's employer.

The agents found on the defendants' licensed premises various indecent cartoons, magazines and pictures and also a contraceptive device. Defendants allege that the indecent matter was left on their premises by a patron and that they have no knowledge as to how the contraceptive device came upon their premises.

Defendants have no prior adjudicated record. I shall suspend their license for a period 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 19th day of October, 1959,

ORDERED that Plenary Retail Distribution License D-14, issued by the Mayor and Council of the Borough of Red Bank to Rose Miles - Adeline Richmond, t/a Heritage Liquors, for premises 7 Broad Street, Red Bank, be and the same is hereby suspended for twenty-five (25) days, commencing at 9:00 a.m., Monday, October 26, 1959, and terminating at 9:00 a.m., Friday, November 20, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

- 5. DISCIPLINARY PROCEEDINGS - OBSCENE MATTER - CONTRACEPTIVES - RETAILER PURCHASING ALCOHOLIC BEVERAGES FROM OTHER THAN NEW JERSEY MANUFACTURER OR WHOLESALER - PURCHASING FOR OTHER THAN CASH WHILE ON DEFAULT LIST - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

LOUIS SILVERSTEIN
t/a LOU'S TAVERN
807 - F. Street
Belmar, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the Borough of Belmar.

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On March 31, 1959 you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing obscene, indecent, filthy, lewd, lascivious and disgusting printings, writings, pictures and other such representations, viz., a comic-strip type booklet containing language and cartoons or drawings depicting sexual intercourse; in violation of Rule 17 of State Regulation No. 20.
- "2. On the aforesaid occasion you, not operating a bona fide pharmacy, possessed prophylactics against venereal disease and contraceptives or contraceptive devices in and upon your licensed premises; in violation of Rule 9 of State Regulation No. 20.
- "3. On various occasions during 1959, 1958 and prior thereto you, a New Jersey retail licensee, without authority of special permit, purchased and obtained alcoholic beverages from a person who was not the holder of any New Jersey manufacturer's or wholesaler's license, in that you purchased and obtained alcoholic beverages from Samuel Linky, who did not hold either of the above types of license; your obtaining alcoholic beverages from such person being in violation of Rule 15 of State Regulation No. 20.

"4. On various occasions during 1959, 1958 and prior thereto while you were listed on the then currently effective Default List published by the Director of the Division of Alcoholic Beverage Control, you purchased and accepted delivery of alcoholic beverages except for payment in cash on delivery; in violation of Rule 4(b) of State Regulation No. 39."

During the course of an investigation by ABC agents of a solicitor's transactions with retail liquor licensees, the defendant admitted that on various occasions during 1959, 1958 and times prior thereto, he had purchased alcoholic beverages from said solicitor which had not been supplied by the solicitor's employer. Defendant stated that, when the merchandise was delivered by the solicitor, he (defendant) did not receive invoices, nor did he question the solicitor from whom the alcoholic beverages had been obtained. Defendant also stated that on numerous occasions while he was on the default list the solicitor has used his own funds to pay bills owed to a wholesaler and that at a later date defendant would reimburse him.

On March 31, 1959, agents, while making an inspection of defendant's licensed premises, seized several contraceptive devices and various indecent cartoons or drawings.

The agents report that the defendant was cooperative and helpful during the investigation.

Defendant has a prior adjudicated record. Effective October 2, 1939, and October 24, 1944, defendant's license was suspended for dissimilar violations. See Bulletin 351, Item 11, and Bulletin 637, Item 11, respectively. Since the aforementioned dissimilar violations occurred more than five years ago, I shall disregard them in fixing the penalty herein. Effective October 15, 1958, defendant's license was again suspended for fifteen days for sale of alcoholic beverages to a minor. Bulletin 1249, Item 5.

In arriving at the penalty I have taken into consideration the fact, as above stated, that the licensee cooperated with agents throughout the course of the investigation.

Under the circumstances, 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 19th day of October, 1959,

ORDERED that Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the Borough of Belmar to Louis Silverstein, t/a Lou's Tavern, for premises 807 - F. Street, Belmar, be and the same is hereby suspended for thirty (30) days, commencing at 2 a.m. Monday, October 26, 1959, and terminating at 2 a.m. Wednesday, November 25, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - INDECENT MATTER - RETAILER PURCHASING ALCOHOLIC BEVERAGES FROM OTHER THAN NEW JERSEY MANUFACTURER OR WHOLE-SALER - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

PETER CAMMARANO & JOSEPH CATALANO
t/a JOLINE AVE. BAR & GRILL
348 Joline Avenue
Long Branch, N. J.

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-4, issued by the Board of Commissioners of the City of Long Branch.

Elliot L. Katz, Esq., Attorney for Defendant-licensees.
William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

- "1. On or about May 12, 1959 you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing obscene, indecent, filthy, lewd, lascivious and disgusting printings, writings, pictures and other such representations, viz., (a) numerous pictures, cartoons and drawings of nude and nearly nude females in indecent and suggestive poses, (b) two sheets of paper containing numerous drawings depicting persons engaged in sexual intercourse, (c) two templets with movable parts to simulate sexual intercourse, (d) two rubber-like representations of males and one of a female and (e) numerous booklets, cards, pieces of paper and other matter containing filthy, suggestive and double-meaning words and statements and/or indecent cartoons and drawings; in violation of Rule 17 of State Regulation No. 20.
- "2. On several occasions in or about 1958 you, a New Jersey retail licensee, without authority of special permit, purchased and obtained alcoholic beverages from a person who was not the holder of any New Jersey manufacturer's or wholesaler's license, in that you purchased and obtained alcoholic beverages from Samuel Linky, who did not hold either of the above types of licenses; your obtaining alcoholic beverages from such person being in violation of Rule 15 of State Regulation No. 20."

During the course of an investigation by ABC agents of a solicitor's transactions with retail licensees, it was disclosed that defendants purchased alcoholic beverages from the solicitor, which merchandise had not been supplied by the solicitor's employer.

The agents, while inspecting the defendants' licensed premises, found a quantity of obscene photographs, pictures, writing

and other indecent articles on the premises.

Defendants have a prior adjudicated record. Effective February 5, 1956 their license was suspended by the municipal issuing authority for ten days for an "hours" violation.

In view of the past dissimilar record within five years and considering the instant violation, especially Charge 1 which is aggravated by the large quantity of indecent matter on the licensed premises, I shall suspend defendants' 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 19th day of October, 1959,

ORDERED that Plenary Retail Consumption License C-4, issued by the Board of Commissioners of the City of Long Branch to Peter Cammarano & Joseph Catalano, t/a Joline Ave. Bar & Grill, for premises 348 Joline Avenue, Long Branch, be and the same is hereby suspended for thirty (30) days, commencing at 7:00 a.m., Monday, October 26, 1959, and terminating at 7:00 a.m., Wednesday, November 25, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

FRANK MCDONNELL
t/a FOX GRILL
136-38 N. King Street
Gloucester City, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-21, issued by the Common Council of Gloucester City.

Defendant-licensee, Pro se.
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant-licensee pleaded non vult to the following charges:

- "1. On August 11 and 12, 1959, you engaged in and 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.
- "2. On August 12, 1959, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as 'numbers game', to be sold and offered for sale on your licensed premises, and you possessed and had custody of, and allowed, permitted and suffered in and upon your licensed premises such tickets and participation rights; in violation of Rule 6 of State Regulation No. 20."

On August 11, 1959, ABC agents at defendant's licensed premises placed horse-race bets with the licensee after observing such licensee

Three one quart bottles labeled 'Imported Seagram's V.O. Canadian Whisky, A Blend, 86.8 Proof';

in violation of Rule 27 of State Regulation No. 20.

- "2. On June 11, 1959 you, through James Smith your president, director and shareholder, 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 an Inspector 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."

On June 11, 1959, an ABC agent tested defendant's open stock of liquor and seized two quart bottles labeled "Four Roses Blended Whiskey, 86 Proof" for further tests by the Division's chemist. James Smith (president of defendant corporation) then stated to the agent that he had refilled the seized bottles with the same brand of whiskey. The agent asked Smith for corks for the seized bottles and Smith broke the seal of a bottle of "Imported Seagram's V.O. Canadian Whisky, A Blend, 86.8 Proof", gave the cap to the agent and poured the contents of the bottle he had just opened into three opened bottles bearing the same Seagram label.

It further appears that Smith became enraged at the agent and argued with the agent to such an extent that a Hoboken patrolman who was passing heard the argument and entered the premises. The patrolman told Smith to cooperate with the agent and left the premises. Almost immediately, the patrolman heard Smith yell "You can't take this whiskey out of here" and returned to the premises where he told Smith to let the agent take the bottles. The agent then left with the five bottles mentioned in the charges. There is no doubt that the president of defendant corporation hindered, or at least failed to facilitate, the investigation.

Defendant has no prior adjudicated record. I have repeatedly warned licensees that refilling bottles even with the same brand constitutes "bottling" which is prohibited by R.S. 33:1-78. There is no doubt as to defendant's guilt as to the first two bottles seized. As to the other three bottles, I conclude that Smith did not know he was committing a violation when he refilled these bottles in the agent's presence. Under all the circumstances of this case, I shall suspend defendant's license for twenty days. Five days will be remitted for the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 19th day of October, 1959,

ORDERED that Plenary Retail Consumption License C-50, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Grace Costello's Inc., for premises 460 Newark Street, Hoboken, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Monday, October 26, 1959, and terminating at 2 a.m. Tuesday, November 10, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings Against)

JOSEPH SCAPICCHIO)
t/a OLD BIRCH TAVERN)
455 Davis Avenue)
Kearny, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-37, issued by the Town)
Council of the Town of Kearny.)

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

BY THE DIRECTOR:

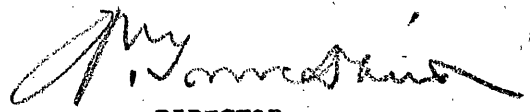
Defendant pleaded non vult to a charge alleging that he possessed on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On September 1, 1959, an ABC agent tested defendant's open stock of liquor and seized a number of bottles for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of three bottles varied substantially in acids and solids when compared with the contents of genuine bottles of the same products.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of twenty days imposed in cases involving three bottles. Re Pittman, Bulletin 1268, Item 9. Five days will be remitted for the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 19th day of October, 1959

ORDERED that Plenary Retail Consumption License C-37, issued by the Town Council of the Town of Kearny to Joseph Scapicchio, t/a Old Birch Tavern, for premises 455 Davis Avenue, Kearny, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Monday, October 26, 1959, and terminating at 2 a.m. Tuesday, November 10, 1959.


DIRECTOR

New Jersey State Library