

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

Mr. Michelson

BULLETIN 1187

SEPTEMBER 27, 1957.

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"3. On or about all the above mentioned dates you transported the aforementioned orders of alcoholic beverages in a vehicle having a transportation insignia affixed thereto but not pursuant to and within the terms of any license as expressly authorized, contrary to R. S. 33:1-2; in violation of R. S. 33:1-50."

The factual basis, as appears in the file, which establishes Charge 1 is that on December 3 and 10, 1956, the defendant obtained alcoholic beverages from his employer, a wholesale licensee, ostensibly billed to two other retail licensees (dormant accounts), without their knowledge, and actually delivered such beverages to the licensees named in the charge, without payment in cash for such beverages, although such last mentioned licensees were then required to pay cash for all deliveries of alcoholic beverages since they were on the Default List (a list of licensees who had failed to pay wholesalers for alcoholic beverages within the time limited by the provisions of Rule 4(a) of State Regulation No. 39).

The factual basis which establishes Charge 2 is that defendant made a practice of obtaining alcoholic beverages from his employer, ostensibly billed to the two retail licensees whose accounts were inactive, on the dates set forth in such charge, extending from August 1955 to January 1957, and actually delivered such beverages, according to defendant, to his friends and relatives. Assuming such to be the fact, although it may be possible that such deliveries were made to other retailers on the Default List, delivery of alcoholic beverages by a wholesale licensee to consumers is contrary to the terms of its wholesale license.

The factual basis which establishes Charge 3 is that the defendant delivered all of such alcoholic beverages in his vehicle which was licensed to transport alcoholic beverages, as evidenced by a transit insignia attached thereto, solely in the respective business of the licensee in connection with and as defined in its license and not as here to make deliveries of alcoholic beverages outside the scope of its license. Such transportation is unlawful under the provisions of R.S. 33:1-2.

Defendant, who has been a licensed solicitor since 1947, has no prior adjudicated record. A single diversion of alcoholic beverages by a solicitor for delivery to consumers and transportation thereof has been punished by suspension of the solicitor's permit for a period of twenty days. Re Freedman, Bulletin 889, Item 5; Re Bachrach, Bulletin 1128, Item 7. However, in the instant case the total value of the alcoholic beverages diverted approximates \$3,500.00 and extended over a considerable period of time. In addition, the two admitted deliveries to a retail licensee on the Default List is far more aggravating than diversion for personal consumption in that it is a deliberate attempt to evade the salutary rule of liquor control prohibiting the delivery of alcoholic beverages on credit to a retail licensee on the Default List. This is highly reprehensible conduct by the solicitor and requires a heavy-fisted penalty, although his previous clear record since 1947 will be given some consideration.

Accordingly, under all the circumstances in the case, including the plea, I shall suspend defendant's solicitor's permit for a period of seventy-five days.

Accordingly, it is, on this 30th day of July, 1957,

ORDERED that Solicitor's Permit No. 2772, for the 1957-58 licensing year, issued by the Director of the Division of Alcoholic Beverage Control to Edward Hartnett, 168 Hamilton Street, East Orange, be and the same is hereby suspended for a period of seventy-five (75) days, commencing at 7:00 a.m. August 7, 1957, and terminating at 7:00 a.m. October 21, 1957.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - SELLING DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - GAMBLING - PRIOR RECORD - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN SZUPINY)
T/a SHUFFLE INN)
386 Johnston Avenue)
Jersey City 4, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-273, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

John Szupiny, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that (1) he conducted business on his licensed premises during prohibited hours, in violation of a local ordinance; (2) he permitted persons other than himself and actual employees and agents in his licensed premises during prohibited hours, in violation of a local ordinance; (3) he sold during prohibited hours alcoholic beverages in their original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38, and (4) he permitted gambling in his licensed premises, viz., the playing of a pool game for stakes of money, in violation of Rule 7 of State Regulation No. 20.

The file discloses that three ABC agents were in defendant's premises on Sunday, June 30, 1957, between 12:25 a.m. and 2:50 a.m. Between 2:05 a.m. and 2:25 a.m. John Szupiny, Jr. (who was acting as bartender and who is a son of the licensee) served drinks to the agents and to other patrons. Shortly after 2:00 a.m. one of the agents purchased from the bartender six cans of beer for off-premises consumption. During the course of their visit the agents observed John Szupiny and a patron playing four games of pool at \$2.00 a game. The agents identified themselves to the bartender at approximately 2:50 a.m.

Defendant has a prior record. Effective July 7, 1947, his license was suspended by the local issuing authority for ten days for an "hours" violation committed on April 23, 1947. Since that violation was committed more than ten years prior

to the violation set forth herein, I shall not consider it in fixing a penalty. Ordinarily I would suspend defendant's license on Charges 1, 2 and 3 for thirty days (Re Charnick & Krimholz, Bulletin 1094, Item 2) and a case involving gambling where the licensee or his agent participated would warrant a suspension of twenty days (Re Joyce, Bulletin 1166, Item 3). In attempted mitigation of the violations defendant states that he conducted the business for approximately twenty years and that he is now an elderly man, in poor health; that one of his sons (who was manager of the premises for a long period of time) died on June 18 of this year and that, while seeking a new bartender, he placed his youngest son (John Szupiny, Jr.), who had very little experience, in charge of the operation of the premises. Considering all the circumstances of this case, I have decided to suspend defendant's license for forty days because of the charges herein. Five days will be remitted for the plea, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 22nd day of July, 1957,

ORDERED that Plenary Retail Consumption License C-273, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to John Szupiny, t/a Shuffle Inn, for premises 386 Johnston Avenue, Jersey City, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. July 29, 1957, and terminating at 2:00 a.m. September 2, 1957.

WILLIAM HOWE DAVIS
Director.

- 3. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AND FAILING TO PERMIT A CLEAR VIEW OF INTERIOR PREMISES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 VIOLA DE FELICE
 T/a VIOLA'S TAVERN
 352 First Street
 Jersey City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-475 (for the 1956-57 and 1957-58 licensing years), issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

 Meehan Brothers, Esqs., by John J. Meehan, Esq., Attorneys for Defendant-licensee.

David S. Piltzer, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that on Sunday, June 2, 1957, she (1) conducted her licensed business during prohibited hours, in violation of a local ordinance; (2) she permitted persons other than herself and her actual employees and agents in her licensed premises during prohibited hours, in violation of a local ordinance; (3) she failed to

permit a clear view of the bar inside her licensed premises during prohibited hours, in violation of a local ordinance, and (4) she sold alcoholic beverages, viz., one pint bottle of Vincove Port Wine in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file discloses that at about 11:30 a.m. Sunday, June 2, 1957, two ABC agents arrived in the vicinity of defendant's premises and one of the agents remained in a position where he could keep the premises under observation while the other left on other duty. The agent who remained observed numerous people approach defendant's husband while he was standing outside of the premises and hand him money, whereupon defendant's husband would enter the premises and come out with a bottle which he would hand to the person who had given him the money. Later the other agent returned and, at 12:23 p.m., knocked on the plate-glass window. Defendant's husband, who was at that time in the premises, opened the door and asked the agent what he wanted. The agent replied that he wanted a pint of port wine and handed the licensee's husband the sum of \$1.00. A few moments later defendant's husband came outside, gave the agent one sealed pint bottle of Vincove wine and fifty cents change, and told the agent to put the bottle in his pocket. During all this period of time the blinds were closed so that the interior of the premises could not be seen from the outside. After the aforesaid purchase was made, both agents entered the premises and identified themselves to the licensee's husband.

Defendant has no prior record. However, effective February 13, 1952, the then Acting Director suspended for twenty days a license then held by Old Spot Clambroth Tavern, Inc., for the same premises, after it had pleaded non vult to charges substantially similar to the charges herein and other charges (Bulletin 927, Item 3). At the time the license of Old Spot Clambroth Tavern, Inc. was suspended, Viola De Felice (defendant herein) was vice-president of said corporation. The minimum suspension imposed for the violations set forth in Charges 1, 2, 3 and 4 herein is thirty days (Re Charnick & Krimholz, Bulletin 1094, Item 2). However, since the violation committed by defendant's predecessor-in-interest is substantially similar to the violations herein and occurred within a ten-year period, although beyond a five-year period, an additional five days will be imposed in this case (Re Amster, Bulletin 1142, Item 5). Hence, I shall suspend defendant's license for 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 23rd day of July, 1957,

ORDERED that Plenary Retail Consumption License C-475 (for the 1957-58 licensing year), issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Viola De Felice, t/a Viola's Tavern, for premises 352 First Street, Jersey City, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. July 29, 1957 and terminating at 2:00 a.m. August 28, 1957.

WILLIAM HOWE DAVIS
Director.

- 4. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - TRANSPORTATION WITHOUT BONA FIDE INVOICE - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

TOWN HALL DELICATESSEN, INC.)
 T/a TOWN HALL DELICATESSEN, INC.)
 18 So. Orange Avenue)
 South Orange, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Board of Trustees of the Village of South Orange.)

 Town Hall Delicatessen, Inc., Defendant-licensee, by Hans Tiedemann, President.
 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 divers days between June 1, 1957 and June 13, 1957, you sold at retail numerous bottles of various 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.

"2. On divers days between May 29, 1957 and June 20, 1957, you delivered and transported alcoholic beverages in a vehicle without the driver having in his possession a requisite bona fide, authentic and accurate delivery slip, invoice, manifest, waybill or similar document; in violation of Rule 3 of State Regulation No. 17."

The file herein discloses that on divers days between June 1, 1957 and June 13, 1957 the defendant made twenty separate sales of sundry brands of numerous bottles of alcoholic beverages substantially below the minimum consumer resale prices thereof as set forth in the then currently effective Minimum Consumer Resale Price List.

The file further discloses that between May 29, 1957 and June 20, 1957 the licensee transported and delivered in its truck alcoholic beverages from its licensed premises to five customers, the delivery slips or waybills for which lacked either the full addresses of the purchasers or the brand names or the sizes of the containers of each item being transported and delivered, as required by Rule 3 aforesaid. In a sworn, written statement dated June 14, 1957 Hans Tiedemann, president of the defendant corporate-licensee, admitted aforesaid violations.

Defendant has a prior adjudicated record. Effective May 12, 1952 its license was suspended by this Division for five days for a fair trade violation. See Bulletin 935, Item 10. The minimum suspension imposed for a violation as set forth in

Charge 1 herein is ten days. Re Bregman, Bulletin 1128, Item 12. However, because of the quantities of alcoholic beverages and the number of sales involved, I shall suspend the defendant's license for twenty days on Charge 1, cf. Re McCarthy & Benham, Bulletin 1059, Item 4; to which will be added ten days on Charge 2, Re Ginsberg, Bulletin 1099, Item 10; and five additional days because of the prior similar violation which occurred more than five but less than ten years ago, Re Giant Liquors, Inc., Bulletin 1074, Item 3, 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 29th day of July, 1957,

ORDERED that Plenary Retail Distribution License D-1, issued by the Board of Trustees of the Village of South Orange to Town Hall Delicatessen, Inc., t/a Town Hall Delicatessen, Inc., for premises at 18 So. Orange Avenue, South Orange, be and the same is hereby suspended for thirty (30) days, commencing at 9:00 a.m. August 6, 1957 and terminating at 9:00 a.m. September 5, 1957.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 JOSEPH SUPEL)
 249 Secaucus Road)
 Secaucus, N. J.,)
 Holder of Plenary Retail Consumption License C-25 (for the 1956-57 and 1957-58 licensing years), issued by the Town Council of the Town of Secaucus.)

CONCLUSIONS AND ORDER

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

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"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., Kathleen ---, age 19, on Friday night May 31 and early Saturday morning, June 1, 1957 and Marie ---, age 17, Helen ---, age 18, and Patrick ---, age 19, during the early morning hours of Saturday, June 1, 1957, and allowed, permitted and suffered the consumption of alcoholic beverages by all such persons in and upon your licensed premises on the above stated respective dates; in violation of Rule 1 of State Regulation No. 20."

On Saturday, June 1, 1957, a little after midnight, three ABC agents were at defendant's licensed premises. James Hamby (bartender) and the licensee were on duty. The agents

observed a group of four couples enter and take seats at a table in the back room. Two of the girls appeared to be minors. Two of the males went to the bar and obtained from the bartender two pitchers of beer and three highballs and brought these drinks to the table where the group was seated. Later, the same two males obtained from the bartender two more pitchers of beer and one highball.

While the agents were observing the activities of this group they also observed another female, who appeared to be a minor, seated at the bar drinking a beverage from a highball glass. They heard this female order from the bartender at different intervals two drinks of Fleischmann's whiskey and ginger ale, which he served and which she consumed.

After the second round of drinks was brought to the group at the table, the agents identified themselves and ascertained that one of the males who obtained the drinks at the bar was Patrick --- (age 19) and that the two young-appearing females were Marie --- (age 17) and Helen --- (age 18). Each of these minors was then drinking beer. While making these inquiries, the agents also ascertained that the girl at the bar was Kathleen --- (age 19).

The agents called these violations to the attention of the licensee and the bartender, and obtained signed sworn statements from each of the minors wherein Marie states that she consumed about three glasses of beer, Helen states that she had one glass of beer, Kathleen states that she arrived at defendant's premises on Friday evening, May 31, at about 11:00 p.m., and during her stay there consumed three drinks of whiskey and ginger ale, and Patrick states that he had a glass of beer in front of him but denies that he drank any of the beer. However, the agents observed Patrick consuming beer.

The bartender signed a sworn statement wherein he substantially confirms the above recited facts and adds that he asked Kathleen her age and accepted her statement that she was of age without any further check, and that he did not ask the ages of the persons seated at the table because he was busy at the bar.

Defendant has a prior adjudicated record. Effective February 25, 1952, his license was suspended for ten days by the local issuing authority for a sale to minors. Considering the fact that in the present instance one of the minors was only seventeen years of age, and that alcoholic beverages were served to four minors, I shall suspend defendant's license for twenty-five days (Re Hinkson, Bulletin 1149, Item 6), to which five days will be added because of the prior similar record which occurred more than five years and less than ten years ago (Re Amster, Bulletin 1142, 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 23rd day of July, 1957,

ORDERED that Plenary Retail Consumption License C-25 (for the 1957-58 licensing year), issued by the Town Council of the Town of Secaucus to Joseph Supel, for premises 249 Secaucus Road, Secaucus, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. July 29, 1957, and terminating at 2:00 a.m. August 23, 1957.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

OCEAN AVENUE TAVERN, INC.)
T/a OCEAN AVENUE TAVERN)
703 Ocean Avenue)
Jersey City 5, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-506, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

Ocean Avenue Tavern, Inc., Defendant-licensee, by Edmund Hollander, President.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that at 1:05 p.m. on Sunday, June 9, 1957, an ABC agent purchased from Edmund Hollander, president of defendant corporate-licensee, a pint bottle of whiskey for off-premises consumption. Rule 1 of State Regulation No. 38 prohibits the sale of alcoholic beverages at retail in original containers for consumption off the licensed premises on Sunday, or before 9:00 a.m. or after 10:00 p.m. on any other day of the week.

Defendant has no prior adjudicated record. I shall suspend its license for a period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Solazzo, Bulletin 1176, Item 10.

Accordingly, it is, on this 23rd day of July, 1957,

ORDERED that Plenary Retail Consumption License C-506, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Ocean Avenue Tavern, Inc., t/a Ocean Avenue Tavern, 703 Ocean Avenue, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. July 29, 1957, and terminating at 2:00 a.m. August 8, 1957.

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)	
ANTHONY J. CICCHINO)	
214-216 North 4th Street)	CONCLUSIONS
Harrison, N. J.,)	AND ORDER
Holder of Plenary Retail Consumption License C-72 (for the 1956-57 and 1957-58 licensing years), issued by the Town Council of the Town of Harrison.)	

 Anthony J. Cicchino, 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 charges:

"1. On June 18 and 19, 1957, you allowed, permitted and suffered gambling, viz., the making and accepting of bets in a lottery commonly known as the 'numbers game', in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.

"2. On June 18 and 19, 1957, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game' to be sold and offered for sale and possessed, had custody of and allowed, permitted and suffered tickets and participation rights in such lottery, in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

The file herein discloses that ABC agents visited defendant's licensed premises on June 18, 1957 from about 10:50 a.m. to 12:30 p.m., during which time Thomas M. Cicchino, the bartender on duty, accepted four 50 cent "numbers" bets from them. Cicchino placed the \$2.00, together with four slips bearing the agents' selected numbers thereon, under the bar and informed the agents they could make similar bets with him by telephone any day after 9:00 a. m. The agents, without comment, left the premises. On the next day, at about 10:45 a.m., the agents with "marked" money in their possession returned to the premises. They had a short conversation with the aforesaid bartender about their bets of the previous day and then prepared four more "numbers" slips for bets totaling \$3.00. They handed the four slips and three marked \$1.00 bills to Cicchino who placed them under the bar. Shortly thereafter another ABC agent and local police entered the premises.

A search of the premises produced the three marked \$1.00 bills, the agents' slips, a pad listing two "numbers" bets (40 cents and 10 cents), two quarters, a pencil and a pen in a container under the bar.

The bartender, a brother of the licensee, refused to give a statement.

In mitigation of penalty, the defendant submitted a statement setting forth therein that he had no knowledge of the gambling activities carried on by his bartender, whom he immediately discharged. The licensee, however, cannot escape the consequences of the aforementioned acts of his agent (Rule 33 of State Regulation No. 20) (cf. Re Nehoc Tavern, Inc., Bulletin 1149, Item 5).

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty-five days on the aforesaid charges. Re Collins, Bulletin 1153, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 23rd day of July, 1957,

ORDERED that Plenary Retail Consumption License C-72, for the 1957-58 licensing year, issued by the Town Council of the Town of Harrison to Anthony J. Cicchino, t/a The Chicks, 214-216 North 4th Street, Harrison, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. July 30, 1957 and terminating at 2:00 a.m. August 19, 1957.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against)

ARTHUR JOHNSON)
T/a AMERICAN HOUSE)
S/H Route #10)
Hanover Township, PO Whippany, N.J.,)

CONCLUSIONS
AND ORDER

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

Ernest P. Biro, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, 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 April 6, 1957, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Samuel R. ---, age 18, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.'

"It appears from the record in this case that on April 6, 1957, Samuel ---, who was 18 years of age at the time, visited defendant's licensed premises with several other young men. He ordered a beer from one John C. Johnson, son of

the defendant, who was tending bar at the time. Prior to the service of the beer, the bartender asked Samuel if he were over 21 years of age and Samuel produced an identification card whereon it was indicated that the person named therein was 26 years of age. Thereafter, the bartender served Samuel several glasses of beer. The defendant relieved his son some time later in the evening and also served a few glasses of beer to Samuel without inquiring as to the latter's age.

"The attorney for the defendant in memorandum submitted on behalf of his client contends that since a fraud was practiced upon the bartender by the production of a card which Samuel later admitted that he had found and which belonged to some other person in the armed forces, the charge herein preferred against the licensee should be dismissed.

"R. S. 33:1-77 provides that one of the necessary statutory requirements in order to establish a valid defense to a sale of alcoholic beverages to a minor is that he falsely represented in writing that he was 21 years of age or over. Thus, the representation in writing by the minor concerning his age being lacking, the defense thereto has not been properly established in this case. Re Roey, Bulletin 747, Item 3.

"I recommend that the defendant be found guilty of the charge preferred herein.

"Defendant has a prior adjudicated record. Effective November 12, 1955 his license was suspended by the local issuing authority for a period of five days for sale of alcoholic beverages during prohibited hours. A sale or service of alcoholic beverages to an 18-year-old minor warrants a minimum penalty of fifteen days (Re Endre & Rinaldi, Bulletin 1133, Item 6) plus an additional five days for the commission of a dissimilar violation within a period of five years, making a total of twenty days. However, in view of the mitigating circumstances appearing in the instant case (see Re Wedemeyer, Bulletin 1050, Item 8), I recommend that the defendant's license be suspended for a period of fifteen days."

Written exceptions to the Hearer's Report, pursuant to Rule 6 of State Regulation No. 16, together with written argument in substantiation thereof, were filed with me by the attorney for defendant.

The attorney for the defendant, on page 2 of his memorandum, stated that "All of the data shown upon the said written identification card tallied and matched that of the alleged minor, including the color of his hair and eyes, his height and weight and it was believed by the said John C. Johnson that this person was 26 years of age. He was unshaven, wore a dark leather jacket and, not only the said Johnson, but all of the witnesses testified that he looked every bit of his alleged 26 years. He was served three or four glasses of beer by the said Johnson."

An examination of the record herein discloses that in many respects the facts alleged in the aforesaid statement are inaccurate. John C. Johnson testified to the effect that "I believe he was over twenty-one, absolutely; he looked older than the other boys"; that he couldn't tell the color of the minor's eyes because the place was dark. I have carefully scrutinized the testimony of witnesses James A. Huff and Patrick Lorenzo, Jr., produced by the defendant, and nowhere in

their testimony is there any statement to be found that the minor "looked every bit of his alleged 26 years." In fact, neither of the said witnesses who claimed to have been in the defendant's premises when the minor was served alcoholic beverages was asked any questions concerning the minor's age whatsoever. Although both Johnsons testified that the minor was unshaven, the ABC agents, the minor and John D. Fleming (his companion) testified that Samuel was clean-shaven at the time.

One thing that is significant regarding John C. Johnson's testimony is that he relies as proof of age on drivers' licenses and birth certificates, and in response to a question asked by his attorney, "In what cases do you ask them to sign papers?", he answered, "I never ask a party to sign a paper." If licensees prefer, either through carelessness on their part or ignorance of the law, to use their own methods of determining the age of a minor, rather than complying with the statute in such case made and provided, they do so at their peril and must accept the consequences thereof.

After careful consideration of the entire record in the instant case, including the transcript of testimony, the Hearer's Report and the exceptions and written argument of the attorney for the defendant, I concur in and adopt the conclusions herein and, as recommended by the Hearer, I find the defendant guilty of the charge preferred in the matter. Hence, I shall suspend defendant's license for fifteen days.

Accordingly, it is, on this 22nd day of July, 1957,

ORDERED that Plenary Retail Consumption License C-2, for the 1957-58 licensing period, issued by the Township Committee of Hanover Township to Arthur Johnson, t/a American House, 276 Rt. #10, Hanover Township, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. July 29, 1957, and terminating at 2:00 a.m. August 13, 1957.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against)
JOSEPH ROMANO)
T/a HOTEL ROMANO)
9-11 Seaview Avenue)
Long Branch, N. J.,)
Holder of Seasonal Retail Consumption License CS-10 (for period from May 1, 1956 to November 1, 1956, and for period from May 1, 1957 to November 1, 1957), issued by the Board of Commissioners of the City of Long Branch.)

ORDER

BY THE DIRECTOR:

By order dated November 5, 1956, I suspended defendant's license for fifteen days. Because defendant's premises were then closed, the order provided that the effective dates for said suspension would be fixed by a further order which would be entered after the licensed premises reopened for business for the 1957 season (see Bulletin 1145, Item 6).

It appearing that defendant has obtained a seasonal retail consumption license for the summer season from May 1, 1957 to November 1, 1957, and an investigation having satisfied me that said premises are now open for business,

It is, on this 29th day of July, 1957,

ORDERED that Seasonal Retail Consumption License CS-10, for the summer season from May 1, 1957 to November 1, 1957, issued by the Board of Commissioners of the City of Long Branch to Joseph Romano, t/a Hotel Romano, for premises 9-11 Seaview Avenue, Long Branch, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. August 14, 1957 and terminating at 3:00 a.m. August 29, 1957.

WILLIAM HOWE DAVIS
Director.

10. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
ISAAC SUSSMAN
T/a IKE'S TAVERN
581 Main Street
Paterson, N. J.,
Holder of Plenary Retail Consumption License C-334, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

CONCLUSIONS
AND ORDER

Isaac Sussman, Defendant-licensee, Pro se.
Dora P. Rothschild, appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on Sunday, May 19, 1957, he sold during prohibited hours an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file discloses that at about 2:40 a.m. Sunday, May 19, 1957, while two ABC agents were then in defendant's premises, a patron purchased a pint bottle of whiskey from Robert Anderson (the bartender). When the patron left the premises with the bottle, one of the agents followed him and stopped him. When this agent returned to the premises with the patron, both agents identified themselves to the bartender, who verbally admitted the violation.

Defendant has no prior adjudicated record. I shall suspend his license for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days (Re Solazzo, Bulletin 1176, Item 10).

Accordingly, it is, on this 29th day of July, 1957,

ORDERED that Plenary Retail Consumption License C-334, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Isaac Sussman, t/a Ike's Tavern, for premises 581 Main Street, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. August 12, 1957 and terminating at 3:00 a.m. August 22, 1957.

WILLIAM HOWE DAVIS
Director.

11. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)
 JACK C. KIKEN)
 T/a SEAVIEW BAR)
 92 Old Bergen Rd.)
 Jersey City 5, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
 tion License C-54, issued by the)
 Municipal Board of Alcoholic)
 Beverage Control of the City of)
 Jersey City.)

 Jack C. Kiken, Defendant-licensee, Pro se.
 William F. Wood, Esq., appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

The defendant pleaded guilty 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.

The file herein discloses that on June 25, 1957, an ABC agent, while testing and gauging the licensee's open bottles of alcoholic beverages, seized three bottles because their contents appeared to be low in proof and submitted the bottles to the Division's chemist for analysis. The chemist's report shows that, when compared with samples of the genuine products of the labeled brands, the contents of the bottle labeled "Four Roses Blended Whiskey 86.8 Proof" is short in proof 12.8, solids and acids low; and that the contents of the bottle labeled "Fleischmann's 90 Proof Preferred Blended Whiskey" is short in proof 15, solids and acids low.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days, the minimum period where two bottles are involved. Re Bamboo Garden Corporation, Bulletin 1158, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 25th day of July, 1957,

ORDERED that Plenary Retail Consumption License C-54, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Jack C. Kiken, t/a Seaview Bar, 92 Old Bergen Rd., Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. July 30, 1957, and terminating at 2:00 a.m. August 9, 1957.

WILLIAM HOWE DAVIS
 Director.

12. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATES FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON RESUMPTION OF BUSINESS.

In the Matter of Disciplinary Proceedings against)
 BOBILU CLUB, INC.)
 T/a WEST END CASINO.)
 717 Ocean Avenue)
 Long Branch, N. J.,)

Holder of Seasonal Retail Consumption License CS-2 (for summer season from May 1, 1956 to November 1, 1956), and now holder of Seasonal Retail Consumption License CS-2 (for summer season from May 1, 1957 to November 1, 1957), issued by the Board of Commissioners of the City of Long Branch.)

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ORDER

BY THE DIRECTOR:

By order dated December 10, 1956, I suspended defendant's license for twenty days. Because defendant's premises were then closed, the order provided that the effective dates for said suspension would be fixed by a further order which would be entered after the licensed premises reopened for business for the 1957 season (see Bulletin 1150, Item 5).

On May 23, 1957, I entered an order making the suspension effective at 3:00 a.m. June 6, 1957, but on June 5, 1957, I vacated said order because an investigation disclosed that the premises had not yet reopened for business. However, I am now satisfied that defendant is operating under the seasonal retail consumption license which it holds for the present summer season, and I have been advised by the president of defendant corporation that it intends to remain open for business until September 10, 1957.

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

ORDERED that Seasonal Retail Consumption License CS-2, for the summer season from May 1, 1957 to November 1, 1957, issued by the Board of Commissioners of the City of Long Branch to Bobilu Club, Inc., t/a West End Casino, for premises 717 Ocean Avenue, Long Branch, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. August 21, 1957, and terminating at 3:00 a.m. September 10, 1957.

WILLIAM HOWE DAVIS
Director.

13. STATE LICENSES - NEW APPLICATION FILED.

Peoples Express Company
497 Raymond Blvd., Newark, N. J.
Application filed September 24, 1957 for Transportation License.