

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

BULLETIN 1142

DECEMBER 10, 1956

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New Jersey State Library

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

BULLETIN 1142

DECEMBER 10, 1956

1. STATE REGULATIONS NO. 30 - RULE 8 AMENDED - MAPLE SHADE
INCLUDED IN AREA B, EFFECTIVE JANUARY 1, 1957.

On September 7, 1956 State Regulations No. 30 were amended to include malt alcoholic beverages pursuant to Section 5 of Chapter 110 of the Laws of 1956 (R. S. 33:1-39.2). Based upon the evidence which had then been submitted, Rule 8 defined two recognized trading areas, Area A consisting of the counties of Bergen, Burlington, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union and Warren, and Area B consisting of the counties of Atlantic, Camden, Cape May, Cumberland, Gloucester and Salem.

Since that time additional evidence (including an independent marketing research report) has been submitted from which it appears that the Township of Maple Shade in Burlington County has traditionally been considered part of the Camden marketing area and, hence, should be included in Area B (with Camden County). Consequently, Rule 8 of State Regulations No. 30 has been amended, effective January 1, 1957 (see below).

William Howe Davis
Director

Rule 8. The recognized trading areas for malt alcoholic beverages shall be known as Area A and Area B, respectively, and shall be as follows:

Area A consists of the counties of Bergen, Burlington (except the Township of Maple Shade), Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union and Warren.

Area B consists of the counties of Atlantic, Camden, Cape May, Cumberland, Gloucester and Salem, and the Township of Maple Shade in Burlington County.

Promulgated Monday, November 5, 1956.

Effective Tuesday, January 1, 1957.

Filed with the Secretary of State (N. J.) Monday, November 5, 1956.

2. DISCIPLINARY PROCEEDINGS - AGGRAVATED SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)	
)	
Frank Farron, t/a Farron's Tavern, 354-356 Paterson Avenue, East Rutherford, New Jersey,)	CONCLUSIONS
)	and
Holder of Plenary Retail Consumption License C-6, issued by the Mayor and Council of the Borough of East Rutherford.)	ORDER
)	

Macy Davidson, 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 a charge alleging that he sold, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that ABC agents, acting upon information transmitted to this Division by the Rutherford Police Department, obtained signed sworn statements from four minors, three of whom stated that at about 7:30 P.M. Saturday, September 8, 1956, they drove to defendant's licensed premises and parked their car directly in front of it; that Salvatore --- (age 17) entered the premises and returned therefrom carrying a case (24 cans) of beer which he put in the car, and that they drove away. Salvatore in his statement verified the aforesaid, and stated that he purchased the case of beer from a bartender in the licensed premises for \$4.50 and that no one made inquiry as to his age. The four youths later directed the agents to defendant's tavern and pointed it out as the place where the beer had been obtained, and Salvatore identified therein Frank Farron (the licensee herein) as the person who made the sale.

Defendant has a prior adjudicated record. Effective June 4, 1945, his license was suspended for three days by the local issuing authority for an "hours" violation. This violation, having occurred more than ten years ago, will not be considered in fixing the penalty herein. The minimum penalty heretofore imposed for an unaggravated sale of alcoholic beverages to a 17-year-old minor was fifteen days (Re Keelan, Bulletin 1095, Item 4). However, on January 16, 1956, I announced that the penalty in such cases would be increased from then on (Re Increased Penalties, Bulletin 1095, Item 1). Since the violation herein occurred after my announcement and is aggravated by the amount of alcoholic beverages sold to the minor, I shall suspend defendant's license for a period of twenty-five days (Re DiThomas, bulletin 1069, Item 6). Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 16th day of October, 1956,

ORDERED that plenary retail consumption license C-6, issued by the Mayor and Council of the Borough of East Rutherford to Frank Farron, t/a Farron's Tavern, for premises 354-356 Paterson Avenue, East Rutherford, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. October 23, 1956, and terminating at 2 a.m. November 12, 1956.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - HOSTESS - UNQUALIFIED EMPLOYEES -
LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LOUIS FERRARO)
t/a Ferraro's Bar & Grill)
3708 Tonnelle Avenue)
North Bergen, N. J.,)

CONCLUSIONS

and

Holder of Plenary Retail Consumption License C-32, issued by the Board of Alcoholic Beverage Control of the Township of North Bergen.)

ORDER

Louis Ferraro, Defendant-Licensee, Pro Se.
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that (1) he permitted hostess activity on his licensed premises in violation of Rule 22 of State Regulations No. 20; and (2) he knowingly employed unqualified persons thereon, in violation of Rule 4 of State Regulations No. 13.

The file herein discloses that ABC agents visited defendant's licensed premises on July 27, August 3 and August 5, 1956, wherein they observed three female entertainers consuming alcoholic drinks served by the bartenders and paid for by male patrons with whom they mingled at the bar after each performance. On their last visit the agents treated the aforesaid entertainers to drinks, identified themselves, seized as evidence the unconsumed liquor in two of their glasses, ascertained that they were unqualified non-resident employees and that they and the bartenders had not been apprised by the licensee that their activities were unlawful. The licensee, while pleading ignorance of the Rules and Regulations, admitted the violations, remarking to the agents "What can I say, you were here, you saw them, you even have the drinks."

Defendant has no prior adjudicated record. I shall suspend his license for twenty days on Charge 1 (Re Pleasant Hour Cocktail Lounge, Inc., Bulletin 1096, Item 2), and for an additional five days on Charge 2 (Re Cadillac Bar Corporation, Bulletin 1059, Item 2), making a total suspension of twenty-five days. Five days will be remitted for the plea entered herein,

leaving a net suspension of twenty days.

Accordingly, it is, on this 16th day of October 1956,

ORDERED that Plenary Retail Consumption License C-32, issued by the Board of Alcoholic Beverage Control of the Township of North Bergen to Louis Ferraro, t/a Ferraro's Bar & Grill, 3708 Tonnelles Avenue, North Bergen, be and the same is hereby suspended for a period of twenty (20) days, commencing at 3 a.m., October 23, 1956, and terminating at 3 a.m., November 12, 1956.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

BOND WINE AND LIQUOR STORE)
6 S. Broadway)
Camden, New Jersey)

CONCLUSIONS

and

Holder of Plenary Retail Distribution License D-20, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

ORDER

Charles L. Rudd, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On or about May 21 and June 1, 6, 18 and 19, 1956 and on divers other dates, you sold at retail numerous bottles of various brands of alcoholic beverages at less than the price thereof listed in the then currently effective Minimum Resale Price List published by the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulations No. 30."

On June 28, 1956, an ABC agent examined the records of defendant-licensee and interviewed David D. Goldstein, president of defendant corporation. The records disclosed that on nine different occasions between May 21 and June 19, 1956, agents of defendant-licensee sold alcoholic beverages at less than the currently effective minimum consumer resale prices thereof. The total amount of the sales was more than \$500 and the discount allowed in each instance was about ten per centum (10%) of the correct price. During the interview the president of defendant corporation admitted to the agent that "they are sales below the Fair Trade prices and I am not going to deny it to you."

Defendant has no prior record. In alleged mitigation

defendant's attorney sets forth that the present stockholders took over the business recently and were ignorant of the law. I can scarcely believe that David D. Goldstein and his son (who occasionally helps him and who is engaged in the retail liquor business) were ignorant of the provisions of State Regulations No. 30. In any event, that cannot be accepted as an excuse. Under the circumstances of this case I shall suspend defendant's license for twenty days (cf. Re Brodsky, Bulletin 1056, Item 7, and Re McCarthy and Benham, Bulletin 1059, Item 4). Five days will be remitted for the plea herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 23rd day of October, 1956,

ORDERED that plenary retail distribution license D-20, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Bond Wine and Liquor Store, for premises 6 S. Broadway, Camden, be and the same is hereby suspended for fifteen (15) days, commencing at 9 a.m. October 29, 1956, and terminating at 9 a.m. November 13, 1956.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF A LOCAL ORDINANCE - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

SOL AMSTER
18 W. Prospect Street
Waldwick, New Jersey

CONCLUSIONS

and

Holder of Plenary Retail Consumption License C-2, issued by the Mayor and Council of the Borough of Waldwick.

ORDER

Herbert F. Myers, Jr., Esq., Attorney for Defendant-licensee.
Dora P. Rothschild, Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that (1) he sold, served and delivered an alcoholic beverage during prohibited hours, in violation of a local ordinance, and (2) he sold, served and delivered an alcoholic beverage during prohibited hours, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that at or about 10:45 a.m. Sunday, July 8, 1956, an ABC agent purchased from Sol Amster (the licensee herein) a pint of whiskey for off-premises consumption. The agent left with his purchase and returned shortly thereafter accompanied by a fellow agent. Both identified themselves to the licensee who verbally admitted the aforesaid sale and asked the agent to give him a "break."

The local ordinance prohibits the sale of alcoholic

beverages between the hours of 2 a.m. and Noon on Sunday, and State Regulations No. 38 prohibits the sale on Sundays of said beverages in original containers for off-premises consumption.

Defendant has a prior adjudicated record. Effective October 9, 1939, his license was suspended for one day by the local issuing authority for hindering an investigation; effective January 5, 1942, his license was suspended for three days by the same authority for an "hours" violation, and effective May 4, 1949, his license was suspended for twenty days by this Division for an "hours" violation (Re Amster, Bulletin 842, Item 4). The minimum penalty imposed for a violation as charged herein is a suspension of the license for twenty days (Re Gardianos, Bulletin 1133, Item 5). However, considering the prior similar violation which occurred within a ten-year period, I shall suspend defendant's license for twenty-five days (Re Gordon, Bulletin 1125, Item 12). Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 16th day of October, 1956,

ORDERED that plenary retail consumption license C-2, issued by the Mayor and Council of the Borough of Waldwick to Sol Amster, for premises 18 W. Prospect Street, Waldwick, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. October 23, 1956, and terminating at 2 a.m. November 12, 1956.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALES TO MINORS, DISMISSED.

In the Matter of Disciplinary Proceedings against

JOHN HYETT
t/a Jockey Club
5-7-7-1/2 So. North Carolina Ave.
Atlantic City, New Jersey

CONCLUSIONS

and

Holder of Plenary Retail Consumption License C-31 (for the 1955-56 licensing year), issued by the Board of Commissioners of the City of Atlantic City.

ORDER

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

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On Sunday morning, April 1, 1956, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Joseph ---, age 19, 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 Regulations No. 20."

At the hearing held herein Joseph --- (19 years of age) testified that he and an adult companion entered defendant's licensed premises about 5 a.m. April 1, 1956; that he and his companion went to the bar where each was served two drinks of whiskey by a barmaid who did not inquire as to his age. On cross-examination he admitted that, from 8 p.m. March 31 until shortly before 5 a.m. April 1, he and his adult companion had been in other licensed premises described as the "Mardi Gras" where each consumed at least ten drinks of whiskey (see Re Agostini, Bulletin 1119, Item 11). The evidence discloses that, when Joseph --- accompanied an ABC agent to defendant's premises on the evening of April 10, he was uncertain whether the sales had been made by Sue Teodosio or Angelina Tarducci, barmaids who were then on duty. When Joseph's adult companion was called as a witness on behalf of the Division he was reluctant to testify but finally said that he had been drinking for two days, during which time he spent \$80 for alcoholic beverages; that he remembers drinking in the "Mardi Gras" with Joseph and has no recollection as to what occurred thereafter until 8 a.m. April 1 when he was involved in an accident. He further testified that "neither of us was in any condition to remember anything."

On behalf of defendant, the licensee testified that his premises were closed to the public at 4 a.m. and reopened for business at about 6 a.m. April 1; that during this period he and two other barmaids remained on the premises to clean up and that Jack Gubin (a friend) was there during that period to drive him home. The licensee, these two barmaids and Jack Gubin testified that neither of the young men was in the premises at any time that morning. Sue Teodosio and Angelina Tarducci testified that they work from 4 p.m. to midnight and that neither was acting as a barmaid during the early morning hours of April 1.

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

Weighing the uncorroborated testimony of the minor and the testimony of his adult companion against the testimony of defendant and his witnesses, I conclude that the Division has failed to establish defendant's guilt by a fair preponderance of the evidence.

Accordingly, it is, on this 17th day of October, 1956,

ORDERED that the charge herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE FOR OFF-PREMISES CONSUMPTION IN OTHER THAN ORIGINAL CONTAINER - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against)

F. WILLIAM & BABETTE M. SCHAEFFER and H. NORMAN & SYLVIA R. WYATT t/a The Barrel Club 677 Bergen Street Newark 8, New Jersey)

CONCLUSIONS

and

ORDER

Holders of Plenary Retail Consumption License C-677, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

A. Milton Jacobs, Esq., Attorney for Defendant-Licensees.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to a charge alleging that on May 29, 1956, they sold for off-premises consumption a pint bottle of Seagram's 7 Crown Blended Whiskey in other than the original container, in violation of R.S. 33:1-2.

Four ABC agents (designated herein as "N", "M", "A" AND "W") participated in this case. At the hearing herein, Agent "N" testified that on the above date he observed William Schaeffer, one of the licensees, sell to Agent "W" (who was not then available because he was serving in the armed forces) a pint bottle of Seagram's 7 Crown Blended Whiskey after such agent told Schaeffer he wanted "a pint of Seagram's Seven to go"; that Schaeffer obtained the bottle of whiskey, broke the seal thereon, poured a drink into a glass, remarking, "I have to do this", replaced the cap, handed the bottle to Agent "W" and told him to put it in his pocket or somewhere; that Agent "W" gave Schaeffer some money and Schaeffer rang up \$2.85, and returned the balance to Agent "W" who placed the bottle under his coat and left the premises. Agent "N" further testified that Agent "W" re-entered the premises within a few minutes accompanied by Agent "A" who had been stationed outside. Agent "M" substantially corroborated the aforesaid testimony except as to the conversation between the bartender and Agent "W". Agent "A" testified that he and Agent "W" displayed the bottle of whiskey to Schaeffer and accused him of selling it under the circumstances above described; that Schaeffer acknowledged that such was the fact and that he charged Agent "W" \$2.85 for the bottle of whiskey; and that the cash register tape on which a sale of \$2.85 was recorded was removed by him.

William Schaeffer, in defense, testified that the agent "called me over and asked--he wanted a bottle to take out off consumption premises. So I walked back and brought it back to him. I opened the cap, poured him a drink, poured myself a drink, collected the money and rang it up on the register. Then I left him alone. I went to tend other patrons. In the meanwhile, he sat there a while. Then all of a sudden I notice him walking out. I called to him but no answer. Then I got out from the back of the bar to try to get him. He was already out the door". Schaeffer denied that he said, "I have to do it this way" when pouring a drink from the bottle.

By his own account, Schaeffer sold the agent a bottle of

whiskey to take out after breaking the seal. He seeks to avoid the consequences thereof by adding such details as his claim that he took the cap off the bottle and threw it on the back bar (although elsewhere in his testimony he said, "When I served the bottle, I put the cap back") and that after he poured the drink he told the agent, "You can't take this out. You have to drink it here". This is, of course, inconsistent with his own account that he obtained a bottle of whiskey to go out and poured a drink out of the bottle without making any such remark. When this inconsistency was called to Schaeffer's attention, he merely vaguely reiterated both statements. Schaeffer further testified that he charged the agent \$4.00 for the whiskey--"a corkage fee"--instead of the usual retail price of \$2.85. He admitted that he only rang up \$2.83 (sic) on the register but claims that he gave the agent \$1.00 change from a \$5.00 bill without telling the agent that he was being charged \$4.00.

It is to be noted when confronted by the agents immediately after the sale was made, that he did not tell them that he sold the bottle of whiskey to the agent to be consumed on the premises or that he attempted to stop the agent from leaving the premises, as he now claims. Instead, he admitted to them that he had sold the bottle "to go out".

In view of this evidence, it is unnecessary to detail or review the testimony of three patrons who testified on the defendants' behalf in ostensible corroboration of Schaeffer's testimony that at some time during the incident Schaeffer told the agent that he couldn't take the bottle out but to drink it there, and that he tried to stop the agent from leaving the premises with the whiskey. These embellishments to the transaction appear to be a contrived afterthought in view of the testimony of the ABC agents that the licensee did not make any such remark or attempt personally or otherwise to detain the agent when he left with the bottle of whiskey. This is further demonstrated by Schaeffer's admission that he sold the bottle for off-premises consumption, his implausible account that he received \$4.00 for the whiskey and only rang up \$2.85, and his failure to inform the agents immediately on the scene of the circumstances under which he now claims he sold the bottle of whiskey and of his attempt to detain the agent.

The Hearer in this matter filed a report wherein the above facts and pertinent principles were set forth and recommended a finding of guilt. Thereafter, pursuant to Rule 6 of State Regulations No. 16, the attorney for the defendants filed exceptions and argument thereon.

I have carefully considered the entire record in this case including the transcript of testimony, the Hearer's Report and the exceptions and argument of counsel, and I concur with the Hearer that the defendants are guilty of the charge preferred herein.

The license of the defendants was suspended, effective July 2, 1956, by the local issuing authority for a dissimilar violation which suspension was reversed on appeal to this Division by my Order contemporaneous herewith. Therefore, it appears that defendants have no present prior adjudicated record. I shall suspend defendants' license for a period of fifteen days. Re Keyhole Bar, Inc., Bulletin 1118, Item 7.

Accordingly, it is, on this 17th day of October 1956,

ORDERED that Plenary Retail Consumption License C-677, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to F. William & Babbette M. Schaeffer and H. Norman & Sylvia R. Wyatt, t/a The Barrel Club, 677 Bergen Street, Newark, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2 a.m., October 29, 1956, and terminating at 2 a.m., November 13, 1956.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against)

JOSEPHINE MONDELLI)
t/a Andy's Cafe)
101 W. Clements Bridge Road)
Runnemede, New Jersey)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-4, issued by the Mayor and Council of the Borough of Runnemede.)

Frank M. Lario, Esq., Attorney for Defendant-Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following amended charge:

"On March 17, 1956, 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., Robert ---, age 18, and Thomas J. ---, age 19, and allowed, permitted and suffered the consumption of alcoholic beverages in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing of this case, the testimony of Robert --- and Thomas J. ---, eighteen and nineteen years of age, respectively, was that they were in defendant's licensed premises on March 17, 1956 between the hours of 1 and 3 p.m.; that each had four or five glasses of beer which were served to them by a male bartender who did not question them as to their ages; that they also played shuffleboard and pool; that on March 21, 1956 both returned to defendant's licensed premises with two ABC agents at which time William J. Flynn (hereinafter referred to as Flynn) was tending bar; that neither of the minors could identify him as the person who had sold and served the beer to them on the day in question. Robert testified that on May 22, 1956 he and the agents went to the defendant's premises and that the defendant, Flynn and two other bartenders were present but he was unable to identify the person who sold and served the beer to him on March 17, 1956.

An ABC agent testified that on March 21, 1956, he, a

fellow agent and the minors in question visited defendant's licensed premise and that Flynn, a bartender, was on duty at that time; that the minors identified the premises but were unable to identify Flynn as the person who had served them beer on March 17, 1956; that he directed Flynn to have in the premises on the following day all other persons who, at any time, worked as bartender in the licensed premises; that the following day the defendant, Flynn, Tony Pavich and Andy Mondelli were in the licensed premises but Robert (Thomas J. was not in the party on this occasion) could not identify any of those present as the bartender who had served them on March 17, 1956; that "Andy Mondelli and Pavich denied serving or ever seeing the two minors in question. Flynn denied serving the two minors in question, however, he did say that he had seen them before"; that on March 21, 1956, Flynn did not tell him he was tending bar on March 17, 1956 but on March 22, 1956, Flynn said that on the day in question he tended bar and that he wore a costume which anyone who had seen him on that day might readily remember.

It was stipulated by the attorneys representing the respective parties herein that if the other agent were called as a witness, his testimony, with one exception would be similar to that of the agent who had testified at the within hearing. The exception mentioned was that he did not hear Flynn explain to his fellow agent the type of dress he claimed he wore on March 17, 1956.

Defendant testified that on Saturday, March 17, 1956, Flynn, her son-in-law, tended bar from the time the establishment opened until 5 p.m. and that during the entire time he wore "a green hat with a green feather and a green tie, it was St. Patrick's Day"; that Tony Pavich, Flynn and her son, Andy Mondelli, tend bar in the establishment; that for a few hours on Saturday nights a man named Ralph Bianco works as a bartender at the back bar; that although she was present on March 17, 1956 from 12 o'clock noon until 5 o'clock in the afternoon and had occasion to go into the barroom from time to time, she did not see any of the boys in her licensed premises.

Flynn testified that on March 17, 1956, he alone was tending bar from the time the place opened until 5 o'clock in the afternoon; that he wore a green derby with a green feather and a green necktie; that the defendant "was working in the kitchen"; that neither Thomas, whom he knew, nor Robert, whom he did not know, was in the defendant's licensed premises on the day in question; that he was present on March 21, and that on March 22, 1956 when the ABC agents came to the premises, the minor could not identify Andy Mondelli, Tony Pavich or himself as having served them beer on March 17th; that on the second occasion when the agents came into the licensed premises he told one of them about the costume he was wearing on St. Patrick's Day. On cross-examination Flynn was asked whether Ralph Bianco worked on March 17th and although he (Flynn) believed that Bianco did work on that day, testified that Bianco "doesn't go on until 10 o'clock at night".

The testimony of the persons called by the respective parties as witnesses in these proceedings appears to be in direct conflict. Flynn who testified he tended bar and defendant who worked in the kitchen but who testified that she had occasion to be in the barroom from time to time, both claimed that the minors were not present at the time in question. On the other hand, we have the testimony of two minors who testified that they spent

approximately two hours in the licensed premises, played shuffle-board and pool therein and that during their stay each was served with divers drinks of beer. Although Flynn was instructed by the ABC agents to produce all the bartenders in the licensed premises on March 22, 1956, Bianco was not present in the licensed premises when the agents and Robert appeared at that time. An examination of all the evidence satisfies me that Robert and Thomas were in defendant's licensed tavern on March 17, 1956 and that during the time that they remained in said premises, each was served beer by the bartender on duty at the time. It has long been established that the failure of a minor to identify the specific person who made the sale of intoxicating beverages to him is not fatal in disciplinary proceedings against the licensee. Re Chessman, Bulletin 1082, Item 10, and cases cited therein.

The Hearer in the instant case filed a report wherein the above facts and pertinent principles were set forth and he recommended that defendant be adjudged guilty of the charge preferred herein. Thereafter, pursuant to Rule 6 of State Regulations No. 16, the attorney for the defendant filed exceptions and argument thereon.

I have carefully examined the entire record in this case, including the transcript of testimony, the Hearer's Report, the exceptions filed by the attorney for the defendant and each and every argument made by him in substantiation thereof. I find nothing therein which would absolve the defendant of guilt in this case. Therefore, I concur with the recommendation of the Hearer that the defendant is guilty of the violation set forth in the charge.

Defendant has no prior adjudicated record. I shall suspend her license for a period of fifteen days, the minimum suspension for the type of violation committed herein. Re Murray, Bulletin 1109, Item 8.

Accordingly, it is, on this 22d day of October 1956,

ORDERED that Plenary Retail Consumption License C-4, issued by the Mayor and Council of the Borough of Runn mede to Josephine Mondelli, t/a Andy's Cafe, 101 W. Clements Bridge Road, Runnemedede, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2 a.m., October 29, 1956, and terminating at 2 a.m., November 13, 1956.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALES TO INTOXICATED PERSONS - UNQUALIFIED EMPLOYEES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

DAVID FREUD AND PATRICK PITTLA)
t/a Airship Cocktail Lounge)
223 Paterson Street)
Paterson 1, New Jersey)

CONCLUSIONS

and

Holder of Plenary Retail Consumption License C-291, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

ORDER

Anthony J. Nardella, Esq., Attorney for Defendant-Licensees.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded guilty to the following charges:

- "1. On June 14, 27 and 30, 1956, 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 Regulations No. 20.
- "2. On June 30, 1956 and prior thereto, you knowingly employed on your licensed premises George Saunders, a non-resident of New Jersey, who had not obtained any requisite employment permit from the Director of the Division of Alcoholic Beverage Control; in violation of Rule 4 of State Regulations No. 13."

The file herein discloses that ABC agents visited defendants' licensed premises on the evenings of June 14, 27 and 29, 1956. On the last visit the agents remained in the premises during the early morning of June 30, 1956. On the visit of June 14th the ABC agents observed several male patrons who appeared to be intoxicated being served alcoholic beverages by the two bartenders on duty at the time. On June 27th the agents spent approximately two hours in the premises during which time they saw a male patron, who appeared intoxicated by reason of the fact that he walked unsteadily and whose eyes were half closed, being served a glass of beer. The patron consumed a portion of the beer and when placing the glass on the bar, knocked it over. He then muttered a few incoherent words and with an unsteady gait left the premises.

At 12:20 a.m. on June 30th, the agents observed three males, one of whom appeared to be intoxicated, enter the premises. The patron who appeared to be intoxicated ordered drinks for

himself and his companions, the latter being served beer while the man in question was served whiskey with a beer chaser. A short time thereafter the man's companions left the premises but he remained seated at the bar. After ordering and consuming a few more drinks of liquor, the man appeared quite intoxicated in that his eyes were blood-shot, his hair disheveled and his speech incoherent. He staggered to the men's room and on his return therefrom, staggered while making his way to the bar. He then ordered another drink of whiskey and after he had taken a sip thereof, one of the agents remarked to the bartender, "It looks like that guy is gone, does he always get that drunk?" to which the bartender replied, "He comes in once in a great while, he gets a load on and then I don't see him again for a few months." The agents spoke to the man and thereafter identified themselves to the bartender just as David Freud, one of the defendant-licensees, entered the premises. The agents questioned the man who appeared to be intoxicated but, finding his speech incoherent and unintelligible, then helped him from the stool and, as he reached the floor, had some difficulty in keeping him erect. The man left the premises.

During the investigation made by the agents after making known their identities, it was found that the pianist employed by the defendants was a non-resident and had not obtained the requisite employment permit from this Division. It was the duty of the defendants to ascertain whether he had the necessary permit and, in employing him without such permit, they violated Rule 4 of State Regulations No. 13. Also see R. S. 33:1-26.

Defendants have no prior adjudicated record. I shall suspend their license on Charge 1 for twenty days (Re Fulton, Bulletin 1094, Item 5), and for an additional five days on Charge 2 (Re Schnur, Bulletin 923, Item 12), making a total of twenty-five days. 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 October 1956,

ORDERED that Plenary Retail Consumption License C-291, issued by the Board of Alcoholic Beverage Control for the City of Paterson to David Freud and Patrick Pittala, t/a Airship Cocktail Lounge, 233 Paterson Street, Paterson, be and the same is hereby suspended for a period of twenty (20) days, commencing at 3 a.m., October 30, 1956 and terminating at 3 a.m., November 19, 1956.

WILLIAM HOWE DAVIS
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)	
)	
WILLIAM J. CELLA)	CONCLUSIONS
1296 Palisade Avenue)	
Fort Lee, New Jersey)	and
)	
Holder of Plenary Retail Consumption License C-36, issued by the Borough Council of the Borough of Fort Lee.)	ORDER

Murphy and Skelley, Esqs., Attorneys for Defendant-Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages, directly or indirectly, to two minors, and permitted the consumption of such alcoholic beverages by said minors in and upon his licensed premises; in violation of Rule 1 of State Regulations No. 20.

ABC agents at defendant's licensed premises on September 7, 1956 observed Joseph Viola, (a bartender) serve each of two young-appearing boys with three glasses of beer. The minors left the barroom with the last glass of beer in their hand and stood just outside the door. At this point the agents identified themselves to the two boys and ascertained their names to be John --- (age 19) and Michael J. --- (age 19). The agents re-entered the barroom with the minors, and identified themselves to Viola, who claimed that he did not remember the minors. Each of the minors stated that he was not questioned concerning his age when served with the beer.

Defendant has no prior adjudicated record. This is urged by the licensee as mitigating circumstances, and it is also represented that the licensee is of good character and of personal integrity and the tavern his only means of livelihood; further that because of the crowded condition of the tavern at the time, it merely amounted to failure to exercise a high degree of caution. None of these circumstances can excuse the sale of alcoholic beverages to minors. In any event, the minimum penalty for an unaggravated sale of alcoholic beverages to two nineteen-year-old minors, subsequent to January 16, 1956 is fifteen days. Re Club Tico Tico, Bulletin 1126, Item 7. I shall suspend defendant's license for 15 days and remit five days for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is on this 18th day of October, 1956,

ORDERED that Plenary Retail Consumption License C-36, issued by the Borough Council of the Borough of Fort Lee to William J. Cella, 1296 Palisade Avenue, Fort Lee, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m., October 29, 1956, and terminating at 3:00 a.m., November 8, 1956.

WILLIAM HOWE DAVIS
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against)

Polish Peoples Home, Inc.)
1-3 Monroe Street)
Passaic, New Jersey)

ORDER

Holder of Plenary Retail Consumption License C-133 for the 1955-56 and 1956-57 licensing years, issued by the Board of Commissioners of the City of Passaic.)

BY THE DIRECTOR:

An order having been entered herein on September 19, 1956, suspending defendant's license for a period of seventy-five days, commencing at 3 a.m. October 1, 1956, and terminating at 3 a.m. December 15, 1956; and

It appearing that the annual charity affair of the Local 217, United Rubber, etc. Workers of America, C.I.O., is scheduled to be held at the defendant's premises on Saturday, November 3, 1956, and that numerous innocent persons would be inconvenienced by the suspension of the license on said date;

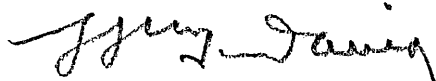
It is, on this 25th day of October, 1956,

ORDERED that the suspension now in effect shall be lifted from 12:00 o'clock Noon on Saturday, November 3, 1956, until 3 a.m. Sunday, November 4, 1956, at which time the suspension shall be reinstated and continue in effect until 3 a.m. December 16, 1956.

WILLIAM HOWE DAVIS
DIRECTOR

12. STATE LICENSES - NEW APPLICATION FILED

Novitiate of Los Gatos Wines Inc.
2 Barclay Street
New York, New York
Application filed December 4, 1956 for
Wine Wholesale License.



William Howe Davis
Director