

BULLETIN 1309

November 20, 1959

TABLE OF CONTENTS

- ITEM
1. APPELLATE DECISIONS - SAGARESE v. MORRISTOWN AND FRATERNAL ORDER OF EAGLES, MORRISTOWN.
 2. DISCIPLINARY PROCEEDINGS (Paterson) - PERMITTING MAKING ARRANGEMENTS FOR ILLICIT SEXUAL INTERCOURSE - OBSCENE CONDUCT - PRIOR RECORD - LICENSE SUSPENDED FOR 150 DAYS.
 3. DISCIPLINARY PROCEEDINGS (Marlboro Township) - SALE TO MINOR - LICENSE SUSPENDED FOR 25 DAYS.
 4. ACTIVITY REPORT FOR OCTOBER 1959.
 5. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1959 TO OCTOBER 31, 1959 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19.
 6. DISCIPLINARY PROCEEDINGS (Newark) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
 7. DISCIPLINARY PROCEEDINGS (Wildwood) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
 8. DISCIPLINARY PROCEEDINGS (Paterson) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
 9. DISCIPLINARY PROCEEDINGS (Newark) - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
 10. DISCIPLINARY PROCEEDINGS (Newark) - SALE TO MINOR - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 10 DAYS LESS 5 FOR PLEA.
 11. AUTOMATIC SUSPENSION - LIFTED AT TERMINATION OF SUSPENSION IMPOSED IN DISCIPLINARY PROCEEDINGS. (Paterson).
 12. STATE LICENSES - NEW APPLICATION FILED.

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

BULLETIN 1309

November 20, 1959

1. APPELLATE DECISIONS - SAGARESE v. MORRISTOWN AND FRATERNAL
ORDER OF EAGLES, MORRISTOWN.

MICHAEL A. SAGARESE,)
)
Appellant,) ON APPEAL
) CONCLUSIONS
v.) AND ORDER
)
MAYOR AND BOARD OF ALDERMEN OF)
THE TOWN OF MORRISTOWN, AND)
FRATERNAL ORDER OF EAGLES,)
MORRISTOWN AERIE #1311,)
)
Respondents.

Michael A. Sagarese, Appellant, Pro se.
E. Marco Stirone, Esq., Attorney for Respondents.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from respondent Board's action on December 23, 1957 whereby it granted an application to transfer Club License CB-2 issued to respondent club from premises 46 Abbett Avenue to 13 Market Street, Morristown, such transfer to be effective when eight specific conditions relating to health and sanitary requirements at the new premises, set forth in its resolution, had been complied with.

"The appeal rests primarily on an attack on the action of the Clerk of respondent Board in determining, on May 22, 1958, that all such conditions had been complied with and issuing such license. A secondary ground of attack is that the list of club members filed with the application includes persons who are deceased or non-residents of this State.

"A local issuing authority may lawfully refuse to issue, renew or transfer a license when it appears that the premises are unfit or unsanitary. The Pines of Watchung v. Watchung, et al., Bulletin 1061, Item 2. The primary responsibility for determining whether the premises are suitable for a license rests with the local issuing authority. Union County RLS Assn. v. Elizabeth, et al., Bulletin 810, Item 5.

"In the light of these principles, the major question to be determined is whether the Town Clerk, acting for the respondent Board, reasonably concluded that the conditions were actually complied with within the letter and spirit thereof as imposed by such Board. The resolution provides that when such conditions have been complied with the Town Clerk is authorized to issue said transfer of license and deliver the same on behalf of the Board. The voluminous record developed at the appeal hearing was due to the fact that appellant was not represented by counsel and, hence, was permitted to present matters concerning his controversy with the municipal authorities as to his official status as a plumbing inspector of that community, although this was not a controlling factor in the appeal.

"Factually, the conditions set forth in the resolution were approved by the Division of Alcoholic Beverage Control on December 27, 1957. On May 12, 1958, the Division was advised in a letter,

on the stationery of the Morristown Board of Health, signed by Stanley Buglione, Sanitary Inspector, that he had inspected the premises in question on May 9, 1958 and found them in compliance with the sanitary requirements of such Board.

"The details of the inspections of the premises after the conditions were imposed by the aforesaid resolution are as follows: On December 9, 1957, after the application was filed, Stanley Buglione, the Sanitary Inspector, inspected the premises and reported to the respondent Board that such premises did not conform to the sanitary requirements of the municipality and set forth nine items to be remedied or corrected. On May 6, 1958, Inspector Buglione made a routine inspection of the premises and did not consider it a final inspection because of some uncleared rubbish. On May 9, 1958, Inspector Buglione made a final inspection for the express purpose of determining whether the above-mentioned conditions had been complied with, found that such was the fact, and so certified in his letter of May 12th above-mentioned, a copy of which was forwarded to the Town Clerk. Inspector Buglione may also have inspected the premises on May 12th. Inspector Buglione was examined by appellant on each item of the conditions set forth in the resolution and testified that all of such conditions had been complied with when he inspected the premises on May 9th.

"Anthony N. Pannucci, appointed on March 24, 1958 a plumbing inspector of the municipality, testified that between April 1, 1958 and May 9, 1958, he made eight inspections at the premises following the issuance of a permit for plumbing work there, during the course of which he made various checks of the plumbing and issued directives to the plumbing contractor to the end that such work would be performed in accordance with municipal requirements, and on his final inspection on May 6th, he issued a certificate that such work had been completed satisfactorily in accordance with official requirements, but noted on the certificate a suggestion concerning water pressure. This suggestion was followed so that when he was there on May 9th, he found that the work performed there conformed to the municipal sanitary code, plumbing code and other building code conditions.

"Cornelius Van Dyken, a Morristown building inspector, testified that following the issuance of a building permit for alterations at the premises, he inspected such premises at various times in March, April and May 1958; that he had nothing to do with the plumbing or sanitary conditions and on May 8, 1958, after he was furnished with clearance from the plumbing inspector, he issued a certificate of occupancy for the premises signifying final inspection and approval of the work performed.

"The Town Clerk testified that after he received a copy of Inspector Buglione's letter of May 12th, he ascertained that Plumbing Inspector Pannucci had issued his certificate on May 6th and that Building Inspector Van Dyken had issued a certificate of occupancy for the premises, whereupon he concluded that all the conditions had been complied with and on May 22, 1958 issued the license to the club, certifying such action to the Division of Alcoholic Beverage Control. He further testified that by reason of these certifications by three inspectors, he ignored appellant's previous complaints that the conditions hereinabove referred to had not been complied with, and further, that he did not check the list of members submitted with and attached to the application of transfer, but accepted the statements sworn to in the application that such were the members.

"Appellant is offended because his criticism that the conditions had not been corrected or remedied was ignored by the municipal

authorities. These criticisms were in the form of a copy of a letter dated April 17, 1958, signed by him ostensibly as plumbing inspector, and addressed to the plumbing contractor on the job, setting forth various objections to the plumbing work being performed there. On the claim that he was then a plumbing inspector (although purportedly removed from such office officially on March 24, 1958), he visited the premises on April 17th and expressed his disapproval of the work being performed there by posting an official sign to that effect (which sign was later removed by other persons), and again visited the premises on April 22nd. After such last visit, he filed with the municipal authorities on April 30th a document reiterating his objections. On May 5th appellant addressed a letter to the Division of Alcoholic Beverage Control voicing similar objections. In response, his attention was called, among other things, to the fact that it was the duty of the municipality to make sure that the premises complied with the health and safety laws and regulations and applicable local ordinances.

"Appellant admits that the club is a bona fide and genuine organization. His attack on the list of hundreds of names of members is limited to two names which he asserts someone told him were out-of-state residents and one name on the list of a person he believes to be dead. This objection merits no further discussion since it is obviously not sound.

"The evidence presented establishes that following regular procedure, inspections were made during the progress of the work done to make certain that such work conformed to the municipal codes and to the conditions imposed in the resolution, and official certificates that such work had been satisfactorily completed were issued. So far as appears, the inspectors were competent and discharged their duties in normal course. The municipal officials are the persons who are to be satisfied that the conditions were complied with to their satisfaction and they had a right to rely on the official reports of their inspectors.

"I am of the opinion that appellant has not established that the conditions above set forth have not been complied with and, hence, I recommend that the appeal be dismissed."

Two letters from appellant have been received and treated as written exceptions to the Hearer's Report filed pursuant to Rule 14 of State Regulation No. 15. These letters set forth, for the most part, statements concerning matters foreign and unrelated to the case and the functions of this Division, and for the rest, reiterate that his statement that the alterations at the licensee's premises were unacceptable cannot be disregarded by the municipal officials. This contention has been fully discussed and considered in the Hearer's Report.

I have carefully considered and reviewed the evidence herein, the Hearer's Report and the exceptions, and concur in the findings and conclusions of the Hearer and adopt his recommendation. I might comment that appellant's criticism that the appeal hearing personnel did not accord him proper treatment is entirely unfounded, since the record discloses that at the lengthy appeal hearing consuming two days, appellant was permitted wide latitude to present all aspects of his case because he was not represented by counsel.

Accordingly, it is, on this 7th day of October 1959,

ORDERED that the action of respondent be and the same is hereby affirmed and that the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - PERMITTING MAKING ARRANGEMENTS FOR ILLICIT SEXUAL INTERCOURSE - OBSCENE CONDUCT - PRIOR RECORD - LICENSE SUSPENDED FOR 150 DAYS.

In the Matter of Disciplinary Proceedings against

HERMAN WEINER
t/a HERBIE'S BAR & GRILL
44 Broadway
Paterson, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-219, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

Leon J. Lavigne, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On June 12, and 24, 1959, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of overtures and arrangements for illicit sexual intercourse and/or acts of perverted sexual relations; in violation of Rule 5 of State Regulation No. 20.
- "2. On June 12 and 24, 1959, you allowed, permitted and suffered foul, filthy and obscene conduct in and upon your licensed premises, viz., lewd, indecent, filthy and disgusting performances, dances, body movements and gestures by a female patron or customer having lewd, indecent, filthy, disgusting and suggestive import and meaning; in violation of Rule 5 of State Regulation No. 20."

On June 12, 1959, at about 10:00 p.m., two ABC agents visited defendant's licensed premises and observed Fred Denman tending bar. At about 10:40 p.m., a female called Marie entered and, after taking a seat at the bar, said to the bartender, "Give me a drink, Freddie, before I come over the bar and rape you". About ten minutes after Marie came into the premises, the defendant-licensee entered, walked behind the bar, spoke to Fred and then came to the patrons' side and occupied a seat near Marie. The latter asked one of the agents to play something "hot" on the juke box and, during one of the numbers, Marie danced about the barroom and, as she did so, she held her dress waist high, kicked her legs in the air and exposed her panties and girdle. All present, including the defendant-licensee, laughed at this exhibition. Marie repeated her performance and, as one of the agents was selecting a record to play on the juke box, she came up behind him, pressed her body against the agent and moved the lower portion thereof in an indecent manner, to the merriment of all the patrons present. Shortly thereafter, a male entered the barroom and, after he took a seat at the bar, Marie asked him to buy her a drink. The male patron complied with her request and then Marie requested one of the agents to buy her a drink, for which Fred took payment from the agent's money. Marie walked to the center of the barroom and, as she picked up her dress to dance, one of the patrons shouted,

"Take off your pants", to which remark the defendant said, "It will cost you more for that". At 11:10 p.m., as Marie was leaving the premises with the male patron who had previously bought a drink for her, she said to the agents, "I'll be back". The agents asked Fred when Marie usually came into the premises and he answered two or three times a week, and volunteered to the agents that Marie engages in sexual perversion. When Marie failed to return within a short period of time, the agents left the premises.

On June 24, 1959, at about 9:30 p.m., the two agents who had visited the defendant's licensed premises on June 12th, together with two other agents, arrived in the vicinity of defendant's premises. Three of the agents, including the two who had made the previous visit (both of whom had in their possession bills from which the serial numbers had been previously recorded) entered the premises. Fred was again on duty as bartender and, when questioned about Marie, he stated that he hadn't seen her. At about 10:00 p.m. the defendant entered, greeted the two agents, and sat next to a female at the bar. The defendant asked if anyone wanted a girl and, when the two agents answered in the affirmative, the defendant stated, "You can't treat her rough, you have to be gentle". The agents promised that they would not hurt the female, to which the defendant said, "O.K., who's buying the drinks". When one of the agents agreed to buy a drink for the female, the defendant instructed her to sit next to him and then called to another female seated at the far end of the bar, requesting that she sit next to the other agent. The defendant ordered and was served a drink by the bartender, as were the two agents, the two females and himself, and the payment therefor of \$3.25 was taken from the money on the bar belonging to one of the agents. After consuming two drinks at the expense of the agents, one of the females left the premises. The defendant appeared annoyed at her leaving and made a remark to the effect. The defendant then invited the agent, who had been seated next to the female who left, to engage in a game of fascination pool. After the game was over the agent, at Fred's suggestion, bought a drink for the defendant who had won the game. At 10:20 p.m., Marie entered and Fred pointed to one of the agents. Marie then sat next to the agent and, after some conversation, Marie agreed to engage in sexual intercourse with him for \$8, then started to dance in the same manner as on the prior visit. The agent informed Fred about the arrangements made with Marie to engage in illicit intercourse and, after stating to Fred what she intended to charge Fred suggested to the agent that, after he got her outside, he should "throw her three bucks". The agent gave Marie five one-dollar bills (the serial numbers of which were previously recorded), which she placed in her purse. After completion of another similar indecent dance, Marie remarked that they should leave and that perhaps she could return later to take care of the other agent. Before leaving, the agent told Fred that he had given Marie the five dollars and Fred advised the agent to take her out immediately before someone else took her. As Marie and the agent reached the outside of the defendant's premises, they were approached by another agent and a local detective. After some questioning, all returned to defendant's premises where Fred admitted that he was aware of the purpose for which the agent and Marie left the premises, but insisted he had nothing to do with the arrangements. The defendant spoke to Fred at police headquarters and Fred then stated that he knew nothing and would deny everything as he did not want word to get around the town that he was a "stool pigeon". Marie admitted that she asked the agent to leave defendant's premises to engage in illicit relations. The "marked" money given by the agent to Marie for such purpose was obtained from her.

The attorney for the defendant has submitted a letter wherein he set forth various factors which he believes should be taken into consideration to mitigate the penalty to be imposed herein for the violations committed. He states that "on the date charged in the

present violations, Mr. Weiner was not present on the premises at any time during the occurrences charged" as he had left the premises to call for his wife who was at her doctor's office and asked a patron (Mr. Costa) to tend bar during his absence. Furthermore, he (Weiner) was only "gone from the premises for approximately an hour and a half". The facts stated by the attorney for defendant do not agree with the facts as reported by the agents. In the first place, Fred Denman (alias Fred Costa) was tending bar on June 12th as well as on June 24th when the agents were in the defendant's premises. It is true that when the final arrangement was made with Marie to leave the premises to engage in illicit intercourse with the agent, defendant had left the premises a short time prior thereto. However, at all other times on the dates in question, the defendant was in the licensed premises. He was present when Marie did her indecent dances and remarked to a patron who had shouted at her "Take off your pants" that if she did it would cost him more. Again, on the June 24th visit the defendant requested two females to sit with the agents and seemed perturbed when one of the females left the premises after consuming only two drinks at the expense of the agents. The evidence is quite conclusive that defendant was aware that the business was being operated in a manner not conducive to the best interests of the public. I have examined the affidavits of three persons with reference to defendant's reputation, but, in view of defendant's attitude as reported by the agents, I cannot give consideration to their contents.

Defendant has a prior adjudicated record. On three separate occasions, i.e., effective March 21, 1945, June 8, 1950 and June 1, 1954, defendant's license was suspended for dissimilar violations. Since these dissimilar violations occurred more than five years ago, I shall disregard them in fixing the penalty herein. However, effective October 25, 1955 defendant's license was again suspended for twenty days for permitting the use of foul, filthy and obscene language in the licensed premises (Re Weiner, Bulletin 1087, Item 7).

Were it established to my satisfaction that the bartender had actually procured Marie to engage in sexual intercourse with the agent, the defendant's license would be revoked. Re Merjack Corporation, Bulletin 998, Item 1, and cases therein cited. However, in the case now under consideration, such concrete proof does not appear. Cf. Re T-Bar & Grill, Inc., Bulletin 1237, Item 1; Cf. Re Club Windsor, Inc., Bulletin 1269, Item 1. Under the circumstances and taking into consideration the aggravation of the second charge and the prior record of defendant, I shall suspend his license for a period of one hundred fifty days.

Accordingly, it is, on this 8th day of October, 1959,

ORDERED that Plenary Retail Consumption License C-219, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Herman Weiner, t/a Herbie's Bar & Grill, for premises 44 Broadway, Paterson, be and the same is hereby suspended for one hundred fifty (150) days, commencing at 3:00 a.m., Monday, October 19, 1959, and terminating at 3:00 a.m., Thursday, March 17, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against)

ARTHUR N. RUBIN)
t/a Village Tavern)
s. Side Tennent Road)
Marlboro Township)
PO Morganville, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-7 (for the 1958-59 and 1959-60 licensing years), issued by the Township Committee of Marlboro Township.)

Heuser, Heuser & DeMaio, Esqs., by Vincent C. DeMaio, Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charge:

'On May 8, 1959, 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., Ernest ---, age 16; in violation of Rule 1 of State Regulation No. 20.'

"At the hearing held herein six young men testified that on May 8, 1959, at about 8 p.m., a car in which they were riding parked almost directly across the street from defendant's premises.

"Ernest --- (one of the young men) testified that the sum of about two dollars had been 'chipped in' by members of the group to buy wine; that he alone left the car with the money in his possession, entered defendant's premises through the left front door and went through an entertainment hall to the barroom; that he purchased two gallon-bottles of wine from defendant who put the bottles in a bag and who did not question him as to his age; that he returned to the car with the wine which was consumed elsewhere by the young men. Ernest --- further testified that about an hour later the group returned to the vicinity of defendant's premises in the same car; that he alone left the car, entered defendant's premises in the same manner and went to the barroom where he purchased three quart-bottles of beer from defendant, who placed these bottles in a bag and again failed to question him as to his age; that he returned to the car with the beer, which was consumed elsewhere by some or all of the young men. Ernest --- testified that he was born on August 2, 1942, and, hence, was sixteen years of age on the date in question.

"While only one of the other five young men testified that he saw Ernest --- actually enter and leave defendant's premises, all of them testified that on both occasions he returned to the car carrying a bag; that on the first occasion the bag contained bottles of wine and that on the second occasion the bag contained bottles of beer. The only material discrepancy between their testimony and that given

by Ernest --- is that they testified that on the first occasion he returned with two one-half gallon bottles of wine whereas he said he purchased two gallon-bottles of wine. I find, from the preponderance of the evidence, that on the first occasion Ernest --- purchased two one-half gallons of wine.

"An ABC agent testified that on May 18, 1959, Ernest --- accompanied him to the premises and identified Arthur N. Rubin as the person who had made the sale and that the licensee then said he had never seen the young man before. The agent also testified that there is no other licensed place within a mile of said premises.

"On behalf of defendant, Arthur N. Rubin testified that he has been a licensee for eleven years and that he has no prior record. He admitted that he is the only person who tends bar in the evening at his premises, but testified that he never saw Ernest --- prior to May 18, 1959, and denies that he ever sold alcoholic beverages to him.

"After considering all the evidence, I find that the testimony of the other five young men sufficiently corroborates the testimony of Ernest ---. There appears to be no reason why the six young men should give false testimony. Weighing their positive evidence against the negative evidence given by defendant, I conclude that the Division has established the guilt of defendant. It is recommended, therefore, that defendant be found guilty as charged.

"Since defendant has no prior record, I recommend that an order be entered suspending the license he now holds for twenty-five days, the minimum penalty for sale to a sixteen-year-old minor. Re Shinkunas, Bulletin 1253, Item 2."

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

After carefully reviewing the evidence and considering the brief submitted by defendant's attorney after the testimony was taken herein, I concur in the conclusions of the Hearer and adopt said conclusions as my conclusions herein.

Accordingly, it is, on this 8th day of October, 1959,

ORDERED that Plenary Retail Consumption License C-7 (for the 1959-60 licensing year), issued by the Township Committee of Marlboro Township to Arthur N. Rubin, t/a Village Tavern, for premises on s. Side Tennent Road, Marlboro Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, October 19, 1959, and terminating at 2 a.m. Friday, November 13, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

5. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1959 TO OCTOBER 31, 1959 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club	Limited Retail Distribution		Seasonal Retail Consumption		Number Surrendered Expired	Number Licenses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid		No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	487	\$ 208,460.00	72	\$ 27,625.00	25	\$ 2,370.00					584	\$ 238,455.00
Bergen	811	308,592.50	301	88,167.00	115	10,826.25	52	\$ 2,446.50	5	\$ 1,361.66	1284	411,393.91
Burlington	186	82,150.00	41	12,885.00	46	6,450.00	1	50.00			274	101,535.00
Camden	453	221,970.00	82	35,165.00	75	7,363.48			1	375.00	611	264,873.48
Cape May	135	76,800.00	11	4,000.00	16	1,950.00					162	82,750.00
Cumberland	80	40,836.64	14	3,950.00	30	4,060.00					124	48,846.64
Essex	1343	758,610.00	350	209,892.00	103	14,125.00	28	1,400.00	1	750.00	1825	984,777.00
Gloucester	108	38,610.00	15	3,820.00	22	1,950.00					145	44,380.00
Hudson	1527	693,518.84	297	122,100.00	84	9,847.16	63	2,700.00			1971	828,166.00
Hunterdon	79	28,000.00	11	3,810.00	10	1,100.00					100	32,910.00
Mercer	419	258,891.25	51	21,500.00	57	8,150.00			1	106.92	528	288,648.17
Middlesex	631	312,255.00	80	25,895.00	100	8,846.07	4	200.00			815	347,196.07
Monmouth	551	288,928.58	122	43,070.00	46	5,300.00	10	435.00	27	12,489.96	756	350,223.54
Morris	356	134,165.00	100	33,850.00	56	5,009.76	18	900.00	4	1,087.50	534	175,012.26
Ocean	186	104,031.84	47	19,680.00	27	3,100.00					260	126,811.84
Passaic	867	356,355.00	167	51,430.00	43	5,225	8	375.00			1085	413,385.00
Salem	51	19,300.00	8	1,550.00	20	1,675.00					79	22,525.00
Somerset	187	84,600.00	41	12,595.00	28	3,250.00					256	100,445.00
Sussex	166	46,155.00	22	4,185.00	10	595.00	1	50.00	1	225.00	200	51,210.00
Union	549	306,410.00	144	66,940.00	74	8,475.00	29	1,425.00			796	363,250.00
Warren	148	44,310.00	21	5,320.00	28	3,100.00			2	337.74	199	53,067.74
Total	9320	\$ 4,412,949.65	1997	\$797,429.00	1015	\$112,767.72	214	\$ 9,981.50	42	\$16,733.78	12588	\$5,349,861.65

William Howe Davis
Director

November 5, 1959

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

GARY'S BAR, INC.)
17 Centre Street)
Newark 2, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-274, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

G. George Addonizio, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it possessed on its 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 August 11, 1959, an ABC agent tested the licensee's open stock of alcoholic beverages and seized a number of bottles for further tests by the Division chemist, which tests disclosed that the contents of two of said bottles, as listed in the charge, when compared with the samples of the genuine product of the labeled brands, varied substantially in solids and acids.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of fifteen days where two bottles are involved. Re Cichowski, Bulletin 1295, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 6th day of October, 1959,

ORDERED that Plenary Retail Consumption License C-274, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Gary's Bar, Inc., for premises 17 Centre Street, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Tuesday, October 13, 1959, and terminating at 2 a.m. Friday, October 23, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

LEO GRANDE & JOSEPH D. SCHIPANI t/a GRANDE'S CAFE 200 West Rio Grande Avenue Wildwood, N. J.)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-49, issued by the Board of Commissioners of the City of Wildwood.)

Defendant-licensees, Pro se.

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

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they possessed on their licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

On August 10, 1959, an ABC agent tested the defendants' open bottles of alcoholic beverages and seized a 4/5 quart bottle of "Cutty Sark Blended Scots Whisky 86 Proof", for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that when compared with an analysis of the genuine product, the contents of said bottle was lower in solids and darker in color.

Defendants have a prior adjudicated record. Effective November 30, 1953 defendants' license was suspended by the then Director for ten days for sale of an alcoholic beverage in its original container for off-premises consumption from an additional public barroom established on their licensed premises when their license did not contain the "broad package privilege". Re Grande and Schipani, Bulletin 994, Item 5. Since the prior dissimilar violation occurred more than five years ago, it will not be considered in fixing the penalty herein. Re Trenz, Bulletin 1221, Item 3. I shall suspend defendants' license for the minimum period of ten days. Re Meola, Bulletin 1285, Item 12. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 6th day of October, 1959,

ORDERED that Plenary Retail Consumption License C-49, issued by the Board of Commissioners of the City of Wildwood to Leo Grande & Joseph D. Schipani, t/a Grande's Cafe, for premises 200 West Rio Grande Avenue, Wildwood, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m., Monday, October 19, 1959, and terminating at 2:00 a.m., Saturday, October 24, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary)
Proceedings against)

MICHAEL KUCHAR & PETER KINEVICH)
t/a MONTGOMERY TAVERN)
80 Montgomery Street)
Paterson, N. J.)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption)
License C-264, issued by the Board of)
Alcoholic Beverage Control for the)
City of Paterson.)

James F. McGovern, Jr., Esq., Attorney for Defendant-licensees.
William F. Wood, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they possessed in and upon their licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

On July 3, 1959, an ABC agent tested defendants' open stock of assorted brands of liquor and seized a quart bottle labeled "Seagram's Seven Crown American Blended Whiskey 86 Proof" for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of the seized bottle were high in solids and low in acids.

Defendants have no prior adjudicated record. However, when the license was held by Michael Kuchar (one of the licensees herein), the Director suspended it for forty-five days effective January 6, 1953, for a "front" violation. Re Kuchar, Bulletin 952, Item 4. Since the aforesaid violation is dissimilar to the violation charged herein and occurred more than five years ago, it will not be considered in fixing the penalty herein. I shall suspend defendants' license for ten days, the minimum suspension imposed in "refill" cases involving one bottle. Re Rossetti, Bulletin 1258, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 7th day of October, 1959,

ORDERED that Plenary Retail Consumption License C-264, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Michael Kuchar & Peter Kinevich, t/a Montgomery Tavern, for premises 80 Montgomery Street, Paterson, be and the same is hereby suspended for five (5) days, commencing at 3 a.m. Monday, October 19, 1959, and terminating at 3 a.m. Saturday, October 24, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN
MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 10
DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

C & D WINE & LIQUOR CO. (A CORP.))
152 Bloomfield Avenue)
Newark 4, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution)
License D-85, issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Newark.)

Anthony M. Zoppi, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it
sold alcoholic beverages at less than the price listed in the
Minimum Consumer Resale Price List then in effect, in violation of
Rule 5 of State Regulation No. 30.

On July 16, 1959, an ABC agent purchased a case of twelve
four-fifth quart bottles of Seagram's Seven Crown Blended Whiskey
for \$51.70 from a clerk at the licensed premises. The minimum
consumer resale price then in effect for such case of whiskey, less
permissible discount, was \$54.61. When agents disclosed their
identity to the clerk, he verbally admitted such sale in the presence
of the President of the corporate licensee.

Defendant has no prior adjudicated record. I shall
suspend defendant's license for the minimum period of ten days.
Re Bowne, Bulletin 1252, Item 7. Five days will be remitted for
the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 8th day of October, 1959,

ORDERED that Plenary Retail Distribution License D-85,
issued by the Municipal Board of Alcoholic Beverage Control of the
City of Newark to C & D Wine & Liquor Co. (A Corp.), for premises
152 Bloomfield Avenue, Newark, be and the same is hereby suspended
for five (5) days, commencing at 9 a.m. Monday, October 19, 1959, and
terminating at 9 a.m. Saturday, October 24, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 10 DAYS LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
 JOSEPH F. HAGEN, JR.)
 t/a HAGEN'S TAVERN) CONCLUSIONS
 63-65 Stuyvesant Avenue) AND ORDER
 Newark 6, N. J.)

Holder of Plenary Retail Consumption License C-65, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

 Torppey and Teltser, Esqs., by Harold R. Teltser, 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 a charge alleging that he sold alcoholic beverages to a minor and permitted the consumption of such beverages by said minor in his licensed premises, in violation of Rule 1 of State Regulation No. 20.

On August 15, 1959, ABC agents entered defendant's premises at 10:55 p.m. Shortly thereafter they observed John --- drinking beer, and at about 11:55 p.m. heard him order a round of beers which were served by defendant. At midnight defendant produced a bottle of champagne and served it to John --- and two adults, one of whom was celebrating his birthday. The agents then questioned John who stated that he was 19 years of age. John signed a statement wherein he said that he had never represented in writing that he was 21 years of age or over, but admitted that on a previous visit to defendant's premises he had exhibited to defendant an altered registration certificate which indicated that he was 21 years of age.

Defendant has not established a defense under R.S. 33:1-77, but the fact that the 19-year-old minor admits that he displayed to defendant the altered certificate will be considered as a mitigating circumstance. Re Wedemeyer, Bulletin 1050, Item 8.

Defendant has no prior record. The usual suspension imposed for an unaggravated sale to a 19-year-old minor is fifteen days. Re Eisenberg, Bulletin 1157, Item 7. In view of the mitigating circumstances in this case, I shall suspend defendant's license for ten days. Re Marlborough Hotel Corp., Bulletin 1218, Item 5. Five days will be remitted for the plea, leaving a net suspension of five days.

Accordingly, it is, on this 8th day of October 1959,

ORDERED that Plenary Retail Consumption License C-65, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Joseph F. Hagen, Jr., t/a Hagen's Tavern, for premises 63-65 Stuyvesant Avenue, Newark, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m., Monday, October 19, 1959, and terminating at 2:00 a.m., Saturday, October 24, 1959.

WILLIAM HOWE DAVIS
 DIRECTOR

11. AUTOMATIC SUSPENSION - LIFTED AT TERMINATION OF SUSPENSION IMPOSED IN DISCIPLINARY PROCEEDINGS.

Auto. Susp. #171)
 In the Matter of a Petition to)
 Lift the Automatic Suspension of)
 License C-361, issued by the) ORDER
 Board of Alcoholic Beverage Control)
 for the City of Paterson to)
)
 CARL SALVIO AND SOPHIE BEDNARZ)
 t/a CARL & SOPHIE'S BAR)
 337 - 21st Avenue)
 Paterson, N. J.)

William J. Marchese, Esq., Attorney for Licensees

BY THE DIRECTOR:

On July 16, 1959, I entered an order herein staying the automatic suspension of the license held by Carl Salvio and Sophie Bednarz pending the entry of a further order. Bulletin 1294, Item 8.

On September 23, 1959, the Board of Alcoholic Beverage Control for the City of Paterson suspended said license for fifteen days, effective from 3 a.m. October 5, 1959, to 3 a.m. October 20, 1959, after the licensees pleaded non vult in disciplinary proceedings alleging that they sold alcoholic beverages to the same minor mentioned in the criminal proceedings. The suspension imposed in the disciplinary proceedings appears to be adequate. Hence I shall enter an order lifting the automatic suspension at the expiration of the suspension imposed in the disciplinary proceedings.

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

ORDERED that the automatic suspension of the license held by Carl Salvio and Sophie Bednarz, t/a Carl & Sophie's Bar, for premises 337 - 21st Avenue, Paterson, be lifted at 3 a.m. Tuesday, October 20, 1959, at which time the license will be restored to full force and operation.

WILLIAM HOWE DAVIS
DIRECTOR

12. STATE LICENSES - NEW APPLICATION FILED.

Rocco A. Spano and Arthur Manno
 t/a Kenilworth Beverage Co.
 631 West Christopher Street
 Orange, New Jersey
 Application filed November 12, 1959 for person-to-person transfer of State Beverage Distributor's license SBD-42 from Bertram A. Bruder, t/a Kenilworth Beverage Co.


 William Howe Davis
 Director