

*Minor case dismissed back to Corroboration*

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

BULLETIN 1213

MARCH 19, 1958.

1. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS AND FAILURE TO KEEP LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - SALES TO MINORS - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

PETER CHRISTAKOS )  
T/a PETER'S PARK TAVERN )  
5400 Park Avenue )  
West New York, N. J., )

CONCLUSIONS )  
AND ORDER )

Holder of Plenary Retail Consump- )  
tion License C-10, issued by the )  
Board of Commissioners of the Town )  
of West New York. )

----- )  
Meehan Brothers, Esqs., by John J. Meehan, Esq., Attorneys )  
for Defendant-licensee. )  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic )  
Beverage Control. )

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that (1) on December 14, 1957, between 3:00 a.m. and 3:15 a.m., he permitted the sale and consumption of alcoholic beverages on his licensed premises, in violation of a local regulation; (2) at the same time, he failed to keep his licensed premises closed during prohibited hours, in violation of the same regulation; (3) on December 26, 1957, at about 11:15 p.m., he permitted the sale of an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38, and (4) on December 26, 1957, he permitted the sale of alcoholic beverages to four minors and permitted said minors to consume such beverages on his licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file discloses that ABC agents were in defendant's licensed premises at 3:00 a.m. (the closing hour) on December 14, 1957. At that time the exterior lights were extinguished and interior lights dimmed, but at 3:05 a.m. the bartender served drinks to two male patrons who consumed their drinks and left the premises at 3:10 a.m. The agents departed at 3:15 a.m. without disclosing their identities.

On December 26, 1957, two ABC agents entered defendant's licensed premises at 10:30 p.m. Shortly thereafter a group of males entered. Some of the males appeared to be minors and the agents observed the service of three rounds of beer to members of the group by Daniel Gualtieri (the bartender). When one of the agents asked the bartender for a quart-bottle of beer at 11:15 p.m., the bartender replied "It's kind of late, but I'll leave it for you at the screen door outside." The bartender placed the bottle outside, returned to the bar and accepted payment for the beer from the agent. Both agents, after obtaining the bottle which had been placed outside,

identified themselves to the bartender. Subsequent investigation disclosed that four of the members of the group referred to above were each eighteen years of age.

Defendant has no prior record. In attempted mitigation defendant alleges that he immediately discharged the bartender who made the sales on December 26, 1957. The minimum penalty for a sale in violation of Rule 1 of State Regulation No. 38 is fifteen days (Re Levine, Bulletin 1201, Item 8); the minimum penalty for sale to an eighteen-year-old minor is fifteen days (Re Show Boat, Inc., Bulletin 1176, Item 6), to which five days will be added because of the number of minors involved (Re Arces, Bulletin 1083, Item 9). Under the circumstances, and particularly because the agents did not then identify themselves, I shall add only five days for the violations set forth in Charges 1 and 2, thus making a total suspension of forty days. Five days will be remitted for the plea herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 13th day of February, 1958,

ORDERED that Plenary Retail Consumption License C-10, issued by the Board of Commissioners of the Town of West New York to Peter Christakos, t/a Peter's Park Tavern, for premises 5400 Park Avenue, West New York, be and the same is hereby suspended for thirty-five (35) days, commencing at 3:00 a.m. February 24, 1958, and terminating at 3:00 a.m. March 31, 1958.

WILLIAM HOWE DAVIS  
Director.

2. DISCIPLINARY PROCEEDINGS - ALLOWING LICENSED PREMISES TO BE CONDUCTED AS A NUISANCE - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS.

In the Matter of Disciplinary Proceedings against )

SUBURBAN TAVERN, INC. )  
1442 Springfield Avenue )  
Irvington 11, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-44, issued by the Board of Commissioners of the Town of Irvington. )

----- )  
Carl J. Yagoda, Esq., Attorney for Defendant-licensee. )  
Edward F. Ambrose, Esq., appearing for the Division of )  
Alcoholic Beverage Control. )

BY THE DIRECTOR:

Defendant entered a plea of non vult to the following charge:

"On October 9, 18, 19, 25, 26, November 8 and 16, 1957, you allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises and your licensed place of business to be conducted in such manner as to become a nuisance; in violation of Rule 5 of State Regulation No. 20."

The file herein discloses that on the dates alleged in the charge, ABC agents visited defendant's licensed premises wherein they observed the licensee's bartenders engaged in foul and filthy conversations with male and female patrons. They further observed each of three females performing a suggestive dance with male patrons and with "Don", one of the bartenders who is a brother of the president of the corporate-licensee herein. To set forth in detail the sordid speech and conduct permitted on the licensed premises would serve no useful purpose. Suffice to say that "Don" was the principal offender whose obscene communications to the agents suggested the possibility of them dating the females for illicit sexual relations. However, since no solicitation by the females for such purpose was observed and there was no participation by the licensee's employees in actually making arrangements for such purposes, the agents identified themselves. "Don" readily admitted the vulgarities heard and observed by the agents, stating that he was only joking about the alleged proclivities of the females because "that's the way we talk around here".

Defendant has a prior adjudicated record. Effective August 2, 1953, its license was suspended for five days by the local issuing authority for sale of alcoholic beverages to a minor. Because the prior dissimilar violation occurred within a five-year period, an additional five days will be added to the minimum penalty for the instant infraction. I shall suspend defendant's license for a period of thirty-five days. Cf. Re Vagabond Bar, Inc., Bulletin 1156, Item 3. The usual remission of five days for a confessional plea will not be allowed since the plea herein was entered on the day set for hearing on the charge.

Accordingly, it is, on this 11th day of February, 1958,

ORDERED that Plenary Retail Consumption License C-44, issued by the Board of Commissioners of the Town of Irvington to Suburban Tavern, Inc., for premises 1442 Springfield Avenue, Irvington, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. February 24, 1958, and terminating at 2:00 a.m. March 31, 1958.

WILLIAM HOWE DAVIS  
Director.

- 3. DISCIPLINARY PROCEEDINGS - FAILURE TO FILE NOTICE OF CHANGES IN FACTS SET FORTH IN APPLICATION IN VIOLATION OF R. S. 33:1-34 - AIDING AND ABETTING NON-LICENSEES TO EXERCISE THE RIGHTS AND PRIVILEGES OF A LICENSE - SUPPRESSING MATERIAL FACTS IN APPLICATION AS TO BROAD PACKAGE PRIVILEGE - UNLAWFUL SITUATION CORRECTED - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against  
 VALERIA KANZER  
 North side of U. S. Route 130  
 Burlington (City), N. J.,  
 Holder of Plenary Retail Consumption License C-17, issued by the Common Council of the City of Burlington, and transferred during the pendency of these proceedings to  
 MAZUR ENTERPRISES, INCORPORATED  
 for the same premises.

CONCLUSIONS  
 AND  
 ORDER

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 C. William Davies, Esq., Attorney for Defendant-licensee.  
 William F. Wood, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. You failed to file with the Burlington City Common Council, within ten days after the occurrence thereof, written notice of changes in facts set forth in answer to Questions 30 and 31 of your license application dated June 17, 1957, upon which you obtained your current plenary retail consumption license, such changes being that on or about August 30, 1957 you entered into an agreement with Mazur Enterprises, Inc. whereby it acquired an interest in your licensed business as the real and beneficial owner thereof and by which you agreed to permit it to retain all the profits from the business; your failure to file such notice being in violation of R. S. 33:1-34.

"2. From about September 11, 1957 to the present time you knowingly aided and abetted Mazur Enterprises, Inc. and/or Joseph A. Mazur to exercise, contrary to R. S. 33:1-26, the rights and privileges of your plenary retail consumption license; thereby yourself violating R. S. 33:1-52.

"3. You failed to file with the Burlington City Common Council, within ten days after the occurrence thereof, written notice of change in fact set forth in answer to Question 32 of your aforesaid license application, such change being that on or about August 30, 1957 a chattel mortgage on the furniture, fixtures, goods and equipment used in connection with the conduct of the alcoholic beverage business operated under your license was given to the Mechanic's National Bank of Burlington; your failure to file such notice being in violation of R. S. 33:1-34.

"4. In your aforesaid application, you failed to answer Question 9(b) and thereby evaded and suppressed the material fact that your license does not include the so-called broad package privilege; such evasion and suppression being in violation of R. S. 33:1-25."

The file herein discloses that the facts in this case are substantially set forth in the foregoing charges and any further detailing of the same would serve no useful purpose.

The violations described in Charges 1 and 2 aforesaid are serious violations of the liquor laws and, in effect, circumvent the control of the license by the constituted authority. Cf. Re Recreation Center of Bogota, A Corp., Bulletin 1109, Item 2. I am likewise reluctant to overlook the licensee's failure to notify the local issuing authority that a chattel mortgage had been placed on the goods and chattels used in connection with the conduct of the licensee's business and the further fact that she failed to answer Question 9(b) in her license application, thereby evading and suppressing a material fact as outlined in Charge 4 herein.

However, the records of this Division now disclose that on February 4, 1958, a transfer of the license in question was effected from Valeria Kanzer to Mazur Enterprises, Incorporated, thereby correcting the aforesaid unlawful condition. In addition, it further appears that all parties mentioned herein are qualified to hold a liquor license.

Defendant has no prior adjudicated record. I shall suspend the defendant's license for twenty days on Charges 1 and 2 herein (the minimum penalty in cases of this kind), Re Marple, Bulletin 1006, Item 5; Re Recreation Center of Bogota, A Corp., supra, to which will be added ten days on Charges 3 and 4, cf. Re Lauria, Bulletin 1004, Item 2, making a total suspension of thirty days.

Accordingly, it is, on this 17th day of February, 1958,

ORDERED that Plenary Retail Consumption License C-17, issued by the Common Council of the City of Burlington to Valeria Kanzer, and transferred to Mazur Enterprises, Incorporated, for premises North side of U. S. Route 130, Burlington, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m., February 25, 1958, and terminating at 2:00 a.m., March 27, 1958.

WILLIAM HOWE DAVIS  
Director.

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

In the Matter of Disciplinary Proceedings against )

EDWARD M. KOWAL, HELEN KOWAL  
VARSACI, ADELLA KOWAL MILLER,  
T/A KOWAL'S FAMILY LIQUOR STORE  
653 High Street  
Burlington City, New Jersey )

CONCLUSIONS  
AND ORDER

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Holders of Plenary Retail Distribution License D-4, issued by the Common Council of the City of Burlington. )

Alexander Denbo, Esq., Attorney for Defendant-licensees.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charge:

"On January 3, 1958, 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., Chester ---, age 19; in violation of Rule 1 of State Regulation No. 20."

The file herein discloses that on January 3, 1958, an employee of defendants sold six twelve-ounce cans of beer and a pint of wine to Chester --- (19 years of age). The minor was apprehended by municipal police who communicated with this Division. ABC agents assigned to the investigation were directed by the minor in question and a male companion to defendants' licensed premises. The employee who was accused of making the sale of the alcoholic beverages to the minor readily admitted that she had done so. She insisted, however, that, when she inquired as to the minor's age, he presented a card to her indicating his age to be twenty-one years. The minor stated that he told the woman before she made the sale of the beer and wine that he was twenty-one years of age but denied that she had at any time requested him to produce any identification card. I am satisfied that the minor was only questioned as to his age and that he did not produce a false identification card, which, in any event, could be considered only as a mitigating circumstance, and not as a defense. 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 twenty-one 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).

Defendants have a prior adjudicated record. Effective March 8, 1954, their license was suspended by the local issuing authority for a period of four days for sale of alcoholic beverages to a minor. An unaggravated sale to a minor nineteen years of age warrants a minimum penalty of fifteen days (Re Kolodziej, Bulletin 1143, Item 11). However, this being a similar violation occurring within the past five years, I shall suspend defendants' license for a period of twenty-five days (Re Kolodziej, supra). Five days will be remitted for the plea entered herein, leaving a net suspension of

twenty days.

Accordingly, it is, on this 28th day of January, 1958,

ORDERED that plenary retail distribution license D-4, issued by the Common Council of the City of Burlington to Edward M. Kowal, Helen Kowal Varsaci, Adella Kowal Miller, t/a Kowal's Family Liquor Store, for premises 653 High Street, Burlington City, be and the same is hereby suspended for twenty (20) days, commencing at 9 a.m. February 4, 1958, and terminating at 9 a.m. February 24, 1958.

WILLIAM HOWE DAVIS  
Director.

5. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
DOROTHY MOSCATO  
T/A GRAND ALLEYS  
1304 - 5th Street  
North Bergen, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-33, issued by the Board of Alcoholic Beverage Control of the Township of North Bergen.

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Irving I. Vogelmann, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that she sold, served and delivered alcoholic beverages to two minors and permitted the consumption of such beverages by said minors in and upon her licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that at about 3:00 a.m., Sunday, November 24, 1957, ABC agents, who were in defendant's licensed premises, observed bartenders employed by the defendant serve alcoholic beverages to a girl and to a youth who appeared to be minors. The agents identified themselves and ascertained that the girl and youth were 19 and 20 years of age, respectively. The female minor claimed that before service of the drink of alcoholic beverages was made to her she displayed a birth certificate to the bartender which indicated that the person named therein was 21 years of age. The male minor also contended that before service of the drink to him he showed to the bartender a draft registration card which indicated that he was more than 21 years of age. Subsequently, the girl admitted that the birth certificate referred to someone other than herself and the youth admitted that he changed the date of birth on the draft registration card to make him appear of age. The defendant contends that the bartenders who served the respective minors relied on the documents that were shown them before making service of the alcoholic beverages to the minors.

It might be pointed out that one of the essential requisites

necessary to establish a defense to a sale or service of alcoholic beverages to a minor is a written representation as to his age, signed by the minor, as provided by law; see R.S. 33:1-77. The exhibiting of a driver's license, birth certificate, etc., is not a compliance with the statute and has been so held by this Division. See Re Angelotta, Bulletin 1163, Item 12.

Defendant has a prior adjudicated record. Effective November 26, 1956 her license was suspended for 85 days on charges of (1) nuisance, (2) sales to minors, (3) sale to an intoxicated person and (4) employment of a minor bartender. Re Moscato, Bulletin 1145, Item 2. Unaggravated sales or service of alcoholic beverages to minors 19 years and 20 years of age, respectively, normally would result in the imposition of a fifteen-day penalty. (Re Monterey Enterprises, Inc., Bulletin 1188, Item 8). I shall take into consideration the particular circumstances that exist in the instant case together with the past record occurring during the past five years (one violation thereof being similar to that now being considered) and shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 29th day of January 1958,

ORDERED that plenary retail consumption license C-33, issued by the Board of Alcoholic Beverage Control of the Township of North Bergen to Dorothy Moscato, t/a Grand Alleys, for premises 1304-5th Street, North Bergen, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m., February 5, 1958, and terminating at 3:00 a.m., February 20, 1958.

WILLIAM HOWE DAVIS  
Director.

6. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT RECORDINGS) - LICENSE SUSPENDED FOR FIFTEEN DAYS LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

MELLO-D-CLUB, INC. )  
T/A MELLO-D-CLUB )  
606 Livingston Street )  
Elizabeth, New Jersey )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-82, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth. )

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Nicholas Sylvester LaCorte, 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 a charge alleging that on November 14, 1957 and on divers days prior thereto, it allowed, permitted and suffered the playing of recordings, of songs, the titles and words of which had lewd, lascivious, indecent, filthy,

disgusting and suggestive import and meaning, in violation of Rule 5 of State Regulation No. 20.

The file herein discloses that on Saturday, October 26, 1957, two ABC agents visited the defendant's licensed premises from 9:00 to 10:45 p.m. during which time they heard a juke box play the recordings of six songs, the lyrics of which had a suggestive connotation and were of a double entendre nature. On November 14, 1957 these records were seized at the licensed premises by an ABC agent.

Joseph Oliveri, the president of the within corporate-licensee, gave a sworn, written statement dated November 14, 1957 setting forth therein that he is the owner of aforesaid records and juke box; that he placed the records in the machine about two weeks ago and that they have been played on the licensed premises.

By way of mitigation the attorney for the defendant has submitted a statement wherein he says that the defendant purchased the records in a music shop serving the general public and that the licensee was under the impression there was nothing legally or morally wrong in playing them at the licensed premises. Such reasons have no merit. (Cf. Re Carbone, Bulletin 1156, Item 7, and Re Brochik, Bulletin 1178, Item 4).

Defendant has no prior adjudicated record. I shall suspend its license for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Carbone, supra.

Accordingly, it is, on this 23rd day of January 1958,

ORDERED that Plenary Retail Consumption License C-82, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth to Mello-D-Club, Inc., t/a Mello-D-Club, for premises 606 Livingston Street, Elizabeth, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., February 3, 1958 and terminating at 2:00 a.m., February 13, 1958.

WILLIAM HOWE DAVIS  
Director.

ACTIVITY REPORT FOR FEBRUARY 1958

<b>ARRESTS:</b>		
Total number of persons arrested - - - - -		21
Licensees and employees - - - - -	12	
Bootleggers - - - - -	8	
ABC agent impersonator - - - - -	1	
<b>SEIZURES:</b>		
Motor vehicles - cars - - - - -		2
Stillls - over 50 gallons - - - - -		1
- 50 gallons or under - - - - -		2
Mash - gallons - - - - -		167.59
Distilled alcoholic beverages - gallons - - - - -		22.51
Brewed malt alcoholic beverages - gallons - - - - -		1.03
<b>RETAIL LICENSEES:</b>		
Premises inspected - - - - -		526
Premises where alcoholic beverages were gauged - - - - -		486
Bottles gauged - - - - -		8,015
Premises where violations were found - - - - -		49
Violations found - - - - -		81
Type of violations found:		
Unqualified employees - - - - -	30	Prohibited signs - - - - -
Application copy not available - - - - -	12	Other mercantile business - - - - -
Reg. #38 sign not posted - - - - -	12	Disposal permit necessary - - - - -
Improper beer taps - - - - -	8	Other violations - - - - -
<b>STATE LICENSEES:</b>		
Premises inspected - - - - -		26
License applications investigated - - - - -		4
<b>COMPLAINTS:</b>		
Complaints assigned for investigation - - - - -		356
Investigations completed - - - - -		322
Investigations pending - - - - -		135
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Analyses made - - - - -		122
Bottles from unlicensed premises - - - - -		32
<b>IDENTIFICATION BUREAU:</b>		
Criminal fingerprint identifications made - - - - -		13
Persons fingerprinted for non-criminal purposes - - - - -		150
Identification contacts made with other enforcement agencies - - - - -		131
Motor vehicle identifications via N. J. State Police teletype - - - - -		1
<b>DISCIPLINARY PROCEEDINGS:</b>		
Cases transmitted to municipalities - - - - -		12
Violations involved - - - - -		14
Sale during prohibited hours - - - - -	11	
Sale to minors - - - - -	1	
Failure to close premises during prohibited hours - - - - -	1	
Failure to afford view into premises during prohibited hours - - - - -	1	
Cases instituted at Division - - - - -		27
Violations involved - - - - -		35
Sale during prohibited hours - - - - -	14	Failure to close premises during
Sale to minors - - - - -	9	prohibited hours - - - - -
Sale below minimum resale price - - - - -	3	Fraud in application - - - - -
Permitting immoral activity on premises - - - - -	1	Permitting gambling (cards) on prem. - - - - -
Conducting business as a nuisance - - - - -	1	Possessing illicit liquor - - - - -
Permitting hostesses on premises - - - - -	1	Solicitor employed by retailer - - - - -
Hindering investigation - - - - -	1	
Cases brought by municipalities on own initiative and reported to Division - - - - -		16
Violations involved - - - - -		17
Sale to minors - - - - -	10	
Permitting bookmaking on premises - - - - -	2	Permitting dancing during prohibited
Permitting brawls on premises - - - - -	2	hours (local reg.) - - - - -
Sale during prohibited hours - - - - -	1	Permitting immoral activity on prem. - - - - -
<b>HEARINGS HELD AT DIVISION:</b>		
Total number of hearings held - - - - -		41
Appeals - - - - -	3	Tax revocations - - - - -
Disciplinary proceedings - - - - -	30	Applications for license - - - - -
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<b>STATE LICENSES AND PERMITS ISSUED:</b>		
Total number issued - - - - -		844
Employment permits - - - - -	114	Miscellaneous permits - - - - -
Solicitors' " - - - - -	78	Transit insignia - - - - -
Disposal permits - - - - -	57	Transit certificates - - - - -
Social affair " - - - - -	288	

Dated: March 6, 1958

WILLIAM HOWE DAVIS  
DIRECTOR

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

In the Matter of Disciplinary Proceedings against	)	
	)	
THOMAS & KATHLEEN MCGARRY	)	CONCLUSIONS
T/A MCGARRY'S TAVERN	)	AND ORDER
594-598 South Orange Avenue	)	
Newark 6, New Jersey	)	
Holder of Plenary Retail Consumption License C-786, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.	)	

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 Defendant-licensees, by Thomas McGarry, a partner.  
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that they sold, served and delivered alcoholic beverages to a minor and permitted said minor to consume alcoholic beverages in their licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that on Saturday, January 11, 1958, at about 11:15 p.m., ABC agents entered defendants' premises and observed a group of seven patrons seated at a table in the dining-room. Shortly thereafter one of the patrons, who appeared to be a minor, went to a service window and obtained from Thomas McGarry two glasses of beer which he carried to the table. He handed one glass to a companion and consumed the contents of the other glass. Thereafter the apparent minor again went to the service window where he obtained from Thomas McGarry two more glasses of beer which he carried to the table. As the apparent minor was consuming the contents of one of these glasses, the agents identified themselves to him and ascertained that he was eighteen years of age. The agents then identified themselves to Thomas McGarry.

Defendants have no prior adjudicated record. I shall suspend defendants' license for fifteen days, which is the minimum penalty imposed for sale of alcoholic beverages to an eighteen-year-old minor (Re Olshaker, Bulletin 1164, Item 10). Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 30th day of January, 1958,

ORDERED that plenary retail consumption license C-786, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Thomas & Kathleen McGarry, t/a McGarry's Tavern, for premises 594-598 South Orange Avenue, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. February 10, 1958, and terminating at 2 a.m. February 20, 1958.

WILLIAM HOWE DAVIS  
 Director.

9. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALES TO MINOR DISMISSED.

In the Matter of Disciplinary )  
Proceedings against )

WILLIAM POHLUT )  
T/a SHAMROCK BAR & GRILL )  
13 Hoover Avenue )  
Passaic, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-3, issued by the )  
Board of Commissioners of the )  
City of Passaic. )

-----  
Joseph M. Keegan, Esq., Attorney 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 September 1, 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., Mary ---, age 17, 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.'

"At the hearing held herein Mary --- testified that she was born on November 26, 1939; that on September 1, 1957, at about 5:30 p.m., she entered defendant's premises alone and took a seat at the bar where she ordered from Harry Veech (a bartender) a glass of draught beer, the contents of which she consumed; that, while seated at the bar, one Leonard --- (an adult) entered the premises and took a seat beside her; that shortly thereafter the bartender served a bottle of beer to each of them, the contents of which they consumed; that both of them left the premises about 6:30 p.m., and that no one in the licensed premises had made any inquiry as to her age. On cross-examination she testified that she wore a yellow cocktail dress when she visited defendant's premises.

"An ABC agent testified that on September 4, at Passaic Police Headquarters, Mary identified Harry Veech as the person who had sold the alcoholic beverages to her on September 1, and that Veech then denied that he had ever seen her prior to that time; that thereafter Mary accompanied the agent to defendant's licensed premises which she identified as the premises in which she had been served.

"At the time of the hearing Leonard --- was confined as a result of criminal charges pending against him because of an alleged attack on Mary ---, but was produced at the hearing and called to testify. He admitted that he knew Mary but refused to testify as to whether or not he had met her at defendant's premises on the afternoon of September 1, 1957, upon the ground that such evidence might tend to incriminate him.

"On behalf of defendant, Harry Veech testified that on September 1, 1957, he came on duty as bartender at about 5:00 p.m.; that there were then twelve or fifteen patrons in the premises, and that Mary never entered the premises during the time he was on duty. He specifically testified that no unescorted female wearing a yellow cocktail dress entered the premises on that evening. William Boland testified that on September 1, 1957, he, his wife and a friend entered defendant's premises at about 4:00 p.m. and remained until about 8:30 p.m.; that Mary --- did not enter during that time, and that no girl in a yellow cocktail dress entered while they were on the premises. Mrs. Dolores Babyack testified that on September 1, 1957, she entered defendant's premises between 4:00 p.m. and 4:30 p.m. and remained until approximately 8:30 p.m.; that during this period of time she conversed with Mr. and Mrs. Boland and a few other people but that Mary did not enter the premises while she was there and that no girl wearing a yellow cocktail dress entered the premises on that evening.

"It appears from the testimony that there is a glass-block window in defendant's premises, and that there is a similar type of window in another tavern only a short distance away on the same side of the street.

"After considering the uncorroborated testimony of the minor, the testimony presented on behalf of defendant by the bartender and the two patrons, and the fact that another tavern with a substantially similar front is located in close proximity to defendant's premises, I conclude that the Division has not established defendant's guilt by a fair preponderance of the evidence. Under the circumstances, it is recommended that an order be entered dismissing the charge."

No exceptions to the Hearer's Report were filed pursuant to Rule 6 of State Regulation No. 16.

After carefully considering the evidence herein, I concur in and adopt the recommended conclusions of the Hearer as my conclusions herein. Hence I shall dismiss the charge.

Accordingly, it is, on this 30th day of January, 1958,

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

WILLIAM HOWE DAVIS  
Director.

10. DISCIPLINARY PROCEEDINGS - SALE 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 )

KAROL JOHN SZOT )  
T/a SZOT'S TAVERN )  
20 William Street )  
Wallington, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-36, issued by the Mayor and Council of the Borough of Wallington. )

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

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging that on Sunday, January 5, 1958, he sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that on Sunday, January 5, 1958, at about 1:20 p.m., the licensee sold two quart-bottles of Ballantine Extra Fine Beer to an ABC agent. The agent left the premises with the beer and met another ABC agent, who had remained outside. Both agents returned to the premises and identified themselves to the licensee who admitted making the aforesaid illegal sale.

The defendant has no prior adjudicated record. I shall suspend his license for the minimum period of fifteen days (Re Cali, Bulletin 1202, Item 9). Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 3rd day of February, 1958,

ORDERED that Plenary Retail Consumption License C-36, issued by the Mayor and Council of the Borough of Wallington to Karol John Szot, t/a Szot's Tavern, for premises 20 William Street, Wallington, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. February 10, 1958, and terminating at 3:00 a.m. February 20, 1958.

WILLIAM HOWE DAVIS  
Director.

11. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - UNQUALIFIED EMPLOYEE IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against JOSEPH DAMATO T/a OLD CORNER 370 Fifth Street Jersey City, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-225, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

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

BY THE DIRECTOR:

The defendant pleaded non vult to the following charges:

"1. On Thursday, January 9, 1958 at about 12:10 a.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., 6 - 12 oz. cans of Schaefer Fine Beer, at retail, in their original containers for consumption off your licensed premises, and allowed, permitted and suffered the removal of such alcoholic beverages from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

"2. On Friday, January 3, 1958, Wednesday, January 8, 1958 and on Thursday, January 9, 1958, you engaged and employed on your licensed premises an agent and a bartender in connection with your licensed business, to whom identification cards had not been issued by the Department of Public Safety of the City of Jersey City, in conformity with Sections 13 and 14 of an ordinance adopted by the Board of Commissioners of the City of Jersey City on June 30, 1950; and in violation of Section 15 of the aforementioned ordinance."

The file herein discloses that on Wednesday, January 8, 1958, at about 11:00 p.m., an ABC agent, followed ten minutes later by three other agents, entered defendant's licensed premises and observed Joseph Damato, licensee, acting as bartender. At about 11:15 p.m. the licensee left the premises. Robert Smith, a patron, replaced the licensee as bartender and sold several glasses of beer to the agents. At about 11:35 p.m. Damato returned to the premises and Smith continued to serve beer to the agents until about 12:10 the following morning at which time Damato relieved him. Shortly thereafter, Damato sold six twelve-ounce cans of Schaefer beer "to go" to one of the agents. Five minutes later three of the agents, one in possession of the beer, left the premises, returned immediately and identified themselves to the

licensee who orally admitted the aforesaid illegal sale of beer. The investigation of the case also discloses that the licensee, contrary to a local ordinance, permitted Robert Smith, who had not been issued an identification card by the Department of Public Safety of Jersey City, to act as bartender in the licensed premises while the agents were present as aforesaid and that on January 3, 1958 the licensee had permitted another patron known as "Hook" to act as his bartender without complying with aforesaid ordinance.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of twenty days. Re Giordano, Bulletin 1197, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 5th day of February, 1958,

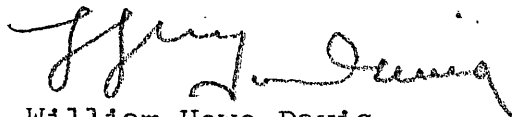
ORDERED that Plenary Retail Consumption License C-225, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Joseph Damato, t/a Old Corner, for premises 370 Fifth Street, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. February 17, 1958, and terminating at 2:00 a.m. March 4, 1958.

WILLIAM HOWE DAVIS  
Director.

12. STATE LICENSES - NEW APPLICATION FILED.

Park Beverages, A Corporation  
T/a Park Beverages  
15-17 Hackensack Avenue  
Ridgefield Park, N. J.

Application filed March 13, 1958 for Limited Wholesale License.



William Howe Davis  
Director.