

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

June 6, 1957

BULLETIN 1170

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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.

June 6, 1957

BULLETIN 1170

1. APPELLATE DECISIONS - MURRAY v. WANAQUE.

MAUDE MURRAY, trading as)
THOMAS LAKE,)
Appellant,)
-vs-) ON APPEAL
BOROUGH COUNCIL OF THE) CONCLUSIONS AND ORDER
BOROUGH OF WANAQUE,)
Respondent.)
-----)

James F. Dougherty, Esq., Attorney for Appellant.
Donato & Donato, Esqs., by Mitchel F. Donato, Esq.,
Attorneys for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from respondent's action denying renewal of appellant's plenary retail consumption license for the 1956-57 licensing year for premises located at Thomas Lake, Storms Avenue, Wanaque Borough.

"Appellant's license was extended until the Director's further order pursuant to an extension granted upon the filing of the appeal herein. See R. S. 33:1-22.

"The petition of appeal alleges that said action was arbitrary, discriminatory, illegal and without proper notice being served on the licensee. The answer of respondent sets forth that appellant was not entitled to a renewal for the following reasons: Appellant has been guilty of selling alcoholic beverages to minors; did not have control over her customers; permitted customers to fight in the licensed premises and refused to cooperate with the local police; permitted drunkenness and loud and abusive noises in and about the licensed premises and permitted other specific misconduct.

"The minutes of respondent's meeting on June 27, 1956, at which appellant's application for renewal was considered, includes the following excerpt: 'In regard to these renewals the mayor entertained objections, noting that the mayor and council, aware of recent developments pertaining to one of these renewals made with the police department a few weeks ago and hearing of so many disturbances and incidents that had taken place, requested a report submitted by the police department. Before having this report read, the mayor entertained objections from the floor in regard to Thomas Lake.'

"The minutes further disclose that six residents in the vicinity of the licensed premises voiced their objection to the renewal of the license because of noise and disturbances at the premises; further that one of these objectors asked why there was the unusual procedure of having two policemen at the premises, whereupon the mayor explained, in part, 'that back in 1953 when another act of violence had taken place at the

tavern a certain person cut up with a broken glass by another and many other fights that were not reported to the police department the establishment had asked the governing body for a little cooperation to help them keep control. Since the responsibility of control rests with the proprietor the mayor and council could have refused help at that time, but didn't like to see people thrown out of business, had to put police protection on to control noise emanating from tavern and premises, many motor vehicle disturbances after closing time, situation was even difficult for police to handle, not sufficient provision in tavern parking lot for such a large crowd. The mayor continued that it is unusual to place police at a tavern from other parts of the borough. We do not have to do this. We did extend a cooperative hand to these people but still the situation hasn't corrected itself. The council has gone over many of the incidents. Chief Nicholas Maglio submitted a report of disturbances and so forth at Thomas Lake listing seven complaints since the week-end of May 5 of this year, also a charge of selling to minors June 10 and dates prior this year, which is being handled by the Division of Alcoholic Beverage Control Commission, 13 complaints in 1955, and 3 in 1953. The chief reported the size of the barroom to be twenty feet by twenty feet and separate from the dance hall. Chief Maglio stated that after a careful investigation of the premises of Thomas Lake and in view of all previous fights and brawls, including the latest act of violence, he recommended in the public interest that renewal of License C-16 be refused.'

"Thus the full perspective of the reasons that renewal was denied is set forth in comprehensive language. Although the licensee was not present at the meeting, she appeared at the hearing on appeal and did not seemingly challenge the accuracy of the description of the disorder at her licensed premises.

"Although the licensee has conducted the licensed business for about thirteen years without having any disciplinary proceedings instituted against the license, she testified that shortly after a serious brawl at the premises in June 1953 she was required to appear before respondent Board for the stated purpose 'to make sure of cops or something to keep order'; that 'we wasn't having a lot of trouble; only once in a while a little argument'; that the Borough Attorney, Chief of Police and Police Commissioner inspected the licensed premises some time after May 1956; that a fight occurred at the licensed premises on June 10, 1956 at about the time her application was under consideration; that there were two fights at the premises after she opened for the season in April 1956; that many teenagers patronized the dance hall at her establishment and that many persons bring their own liquor and drink it there; that even with two special policemen on duty, she continues to have trouble at the premises once in a while. The licensee's husband, who acts as bartender at the premises, testified that he recollected one of two fights at the premises in 1955 and two fights in 1956.

"This account substantially confirms the respondent's recital of improper conduct which led it to deny renewal without detailing the facts testified to by respondent's witnesses. Nevertheless, for completeness of the record, I shall refer to their testimony.

"Four of the six persons who appeared at respondent's meeting and objected to the renewal were present at the appeal.

hearing and testified, in substance, that originally the licensee conducted her business in a fairly quiet manner, but during the past six years it has been conducted with an excess of noise and music and objectionable language, usually at two or three o'clock in the morning, which interfered with their rest and sleep. One of these persons called police on this score three or four times in 1955 and another has made complaints during the past three years.

"One special officer on duty at the premises June 3, 1956, testified that he was called upon to break up a fight on that date on the licensed premises; that since 1953 or 1954, while on duty at the licensed premises, he has witnessed about ten fights; that in his opinion two officers are insufficient to maintain proper order there because of the large area which they are required to patrol; that it would require about four officers. His fellow officer on duty June 3rd testified that he was on duty about four or five times in 1956 during which period he observed a few fights including the June 3rd incident. Two other officers testified that they were on duty at the licensed premises on various occasions and on June 10, 1956 were called upon to break up a 'bad' fight or free-for-all involving a number of persons in the premises with one of the participants requiring hospital treatment.

"Two minors testified that they were at the licensed premises on June 10, 1956. One of the minors testified that he was nineteen years of age at the time; that he had been frequenting the place for six or seven months and that on June 10, 1956 he witnessed the fight during the course of which one of the participants had been hit over the head with a bottle. The other minor, who was twenty years of age at the time, stated that he was frequently in the licensed premises and was served with a bottle of beer on June 10, 1956.

"Chief of Police Maglio testified that he has been Chief of Police of the Borough for the past three years and a member of the police force for seventeen years; that he submitted a report copied from the police file of complaints against the licensed premises (which report was presented in evidence); that he is familiar with the items in the report, either through personal investigation or through reports to him by members of the Police force of whom there are four regular men and about ten special officers; that no other licensee in the municipality is required to or employs police to patrol his premises; that from his personal observation very loud and annoying noises and objectionable language emanates from the licensed premises; that he told the licensee on three or four occasions in the past three years that fights and sales to minors will have to stop, the last such occasion being the latter part of 1955. In his opinion, 'The group of people going there now are young, from the ages of 17, 18, and 19, the place from riding in and out and hollering and shouting in there, and fights and brawls, and the other fights they have the police don't have no recollection of or ever been called on. To me the place itself is a public nuisance'; that there was no improvement in the conduct of the licensed business since 1953 and that the June 10 incident climaxed the unsavory past record.

"The police report lists a fight on June 14, 1953 involving two men and a knife; four fights on June 21, 1953

and an assault and battery case on June 27, 1953, all at the licensed premises; twelve police calls in 1955, three apparently at the licensed premises and the balance in the vicinity thereof involving persons alleged to have been at such premises; seven police calls in 1956, four involving fights at the licensed premises; two complaints of noise at the premises; and one complaint involving misconduct in the vicinity of the premises.

"The patient consideration accorded to the licensee by respondent throughout the problem presented by the conduct of the licensed premises is epitomized in Mayor Evangelista's testimony at the hearing on appeal. It appears therefrom that he has been Mayor for six years and a Councilman previous thereto for three years. At the 1953 meeting with the licensee, the recent serious fight at her premises was discussed and she was reminded of previous instances of fighting and disturbances at the place and an agreement was reached as to the nature of police supervision to be afforded her. Nevertheless, thereafter there were always cases where trouble broke out. He further stated '-- I tried to be very fair about the whole thing. I didn't have to send police up there. Nothing compelled us to send police to the premises. We did think it was an act of cooperation to extend a helping hand -- I tried to be fair with these people. I wasn't interested in taking away a license and I do know that in many cases, the fellows went there and talked to the people and tried to work with them in these situations -- the chief of police constantly reminded me of the troubles there -- to me it appeared as a place where anything might happen, a dangerous spot. It was a trouble spot.'

"In my opinion, the contentions set forth in the brief submitted by counsel for appellant are not supported by the evidence. The respondent was not required to hold any hearing in the absence of the filing of a written objection to such a renewal and in any event on appeal it is a trial de novo. Re Nordco, Bulletin 1148, Item 2. Renewal may be denied because of previous misconduct of the licensee although no previous disciplinary proceedings had been instituted. Re Downie, Bulletin 1135, Item 1, and cases cited therein.

"I conclude that the respondent was amply justified in refusing to renew the license because of its conclusion as supported by the evidence of the improper conduct of the licensed business so as to constitute a trouble spot (Re Nordco, supra) and recommend that an order be entered affirming the action of respondent."

Written exceptions to the Hearer's Report and written argument as to said exceptions were filed with me by the attorney for appellant, and written answering argument was filed with me by the attorney for the respondent within the time permitted by Rule 14 of State Regulation No. 15.

After carefully considering the entire record in this case, including the transcript of testimony, the Hearer's Report and the exceptions and written arguments of counsel, I concur in and adopt the conclusions set forth in the Hearer's Report as my conclusions herein, and, as recommended by the Hearer, I shall enter an order affirming respondent's action.

Accordingly, it is, on this 18th day of April, 1957,

ORDERED that the action of respondent be and the same is hereby affirmed; and it is further

ORDERED that my order dated June 29, 1956, extending appellant's old license pending entry of a further order herein, be vacated effective at 3:00 a.m. April 23, 1957, at which time appellant shall cease operation of the licensed business.

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - WILSON'S LIQUOR STORE, INC. v. CLIFTON AND ANGIULLI.

WILSON'S LIQUOR STORE, INC.,)

Appellant,)

-vs-

ON APPEAL
CONCLUSIONS AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY)
OF CLIFTON, and JOSEPH ANGIULLI,)
t/a CENTER WINES & LIQUORS,)

Respondents.)

Theodore D. Rosenberg, Esq., Attorney for Appellant.
Heller & Laiks, Esqs., by Murray A. Laiks, Esq., Attorneys for Respondent-licensee.
Edward F. Johnson, Esq., by Manfred Triebel, Esq., Attorney for Respondent-Municipality.
John G. Dluhy, Esq., Amicus Curiae, Representing 301 Realty Corp., Landlord.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of the respondent Board in approving an application filed by respondent-licensee for a place-to-place transfer of his plenary retail distribution license from 35 Center Street to 165 Lakeview Avenue, Clifton.

"The three members of the respondent Board voted unanimously to grant the transfer of the license in question.

"Appellant, which holds a plenary retail distribution license, in its petition of appeal contends that there was no need for nor convenience to be served by the transfer of the license to the proposed premises and, therefore, respondent Board's action in granting the transfer was arbitrary, improper and capricious and should be reversed.

"Appellant produced five witnesses who reside in the neighborhood of the proposed premises, each of whom testified that in his opinion there were sufficient liquor outlets existing in the area to meet the requirements of those desiring to purchase alcoholic beverages. Harry Wilson, secretary of appellant corporation which operates at premises located two blocks from respondent-licensee's proposed premises, and Joseph L. Mayer, employed by John Mayer (a plenary retail distribution licensee) located on Lakeview Avenue at a greater distance than Wilson's Liquor Store, Inc. from the premises in question, testified that in their opinion there is no need or convenience to be served by the transfer. Furthermore, they testified that the transfer would, in a financial way, adversely affect the liquor establishments with which they are associated.

"Benjamin Blackman, Chairman of respondent Board, testified concerning the transfer that '*** it was outside of the 500-foot area, which means there was no legal limitations. We felt that the area it was going into was far less populated with taverns, package stores than the area, in my opinion, in which the man was in. We felt that Lakeview Avenue being the widest street in the city and a thoroughfare there would be no traffic hazards.' He testified further that 'We thought there was a need and necessity in that particular area particularly since most of these people deliver and cars go through, the population there I don't know what it is but I'd say it's a little bit less than Center Street. We know Center Street is a one-way street, two cars go through at one time. We know there is parking on one side. That was brought to our attention, that came out in the testimony. There was double parking in front of this man's store. We saw the maps which showed, and which we verified in our own minds, which shows a densely populated area with taverns and liquor licenses, which was the result of the old way of giving out licenses. After all you know there was no restriction as to where a licensee could have his place. He could have it next door to another premises. The over-all picture we thought for the City of Clifton it was better for the transfer to be on Lakeview Avenue than over that direction. We felt, according to the interpretation of the ABC Laws, it was better.'

"Two petitions, one containing names in favor of and the other containing names opposed to the transfer now being considered, were marked in evidence as exhibits in this case.

"It has been held repeatedly that the number of licenses which should be permitted in any particular area is a matter confided to the sound discretion of the issuing authority. The Director's function on appeals of the type now under consideration is not to substitute his personal opinion for that of the issuing authority, but merely to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of his personal view on the subject. Rafalowski v. Trenton, Bulletin 155, Item 8; Northend Tavern, Inc. v. Northvale, Bulletin 493, Item 5; Petti v. Bayonne, Bulletin 564, Item 7; Mulcahy et al. v. Maplewood et al., Bulletin 658, Item 4; Segal et al. v. Clifton et al., Bulletin 732, Item 5; Hudson-Bergen County Retail Liquor Stores Association v. North Bergen et al., Bulletin 997, Item 2; Baker et al. v. Newark et al., Bulletin 1018, Item 1.

"The fact that the transfer of the license may be contrary to the economic interest of appellant is not a sufficient reason for setting aside the transfer. Knast et al. v. Camden et al., Bulletin 810, Item 2.

"An examination of all the evidence presented herein shows no improper motivation on the part of the members of respondent Board in approving the transfer of the license in question. Moreover, there is no evidence that they acted in an arbitrary, capricious or unreasonable manner in arriving at their determination. I conclude that appellant has not sustained the burden of proof imposed upon it in establishing that respondent Board acted in an erroneous manner. Rule 6 of State Regulation No. 15. I recommend that the action of respondent Board in approving the application for the transfer of the license of respondent Joseph Angiulli to premises 165 Lakeview Avenue be affirmed."

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

I have carefully considered all the testimony presented herein and also the Hearer's Report submitted in the matter and agree with the statement of facts and conclusions of law set forth in said Report. I, therefore, adopt the conclusions therein contained as my conclusions in the instant case. Hence, I shall affirm the action of the respondent Board in granting the transfer in question.

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

ORDERED that the action of the respondent Board of Alcoholic Beverage Control of the City of Clifton, be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - ILLICIT LIQUOR - PRIOR RECORD - LICENSE SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LOUIS FIALA and HENRY FIALA)
T/a LOUIS FIALA TAVERN)
8527 Hudson Boulevard)
North Bergen, N. J.,)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-9, issued by the Board of Alcoholic Beverage Control of the Town of North Bergen.)

Harold Krieger, Esq., Attorney for Defendant-licensees.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charges:

"1. On Sunday, January 13, 1957, you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., six cans of Bavarian Premium Beer, at retail in their original containers for consumption off the licensed premises, and allowed, permitted and suffered the removal of such beverages from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

"2. On the aforesaid date you possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises, alcoholic beverages in bottles which did not bear any indicia of tax payment as required by the laws of the United States, viz.,

Two 3/4 quart bottles labeled 'Kirsebaer Liqueur Bedste Sort - Cherry Heering' and containing a beverage with 22% of alcohol by volume,

Three 4/5 quart bottles labeled 'Specialite Cointreau Liqueur Angers' and containing a beverage with 40% of alcohol by volume,

One 4/5 quart bottle labeled 'Triple Orange Grand Marnier Liqueur' and containing a beverage with 40% of alcohol by volume,

One 4/5 quart bottle labeled 'Liqueur Fabriquee A La Gde. Chartreuse' and containing a beverage with 56% of alcohol by volume,

One quart bottle labeled 'Pernod 45 Liqueur D'Anis Pernod Fils' and containing a beverage with 46% of alcohol by volume, and

One 1/2 gallon bottle labeled 'Great Bear Ideal Spring Water' and containing a beverage with 30% of alcohol by volume;

and you also possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises, an alcoholic beverage in a bottle which bore a label which did not truly describe its contents, viz.,

The aforesaid 1/2 gallon bottle labeled 'Great Bear Ideal Spring Water';

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

"3. On various occasions on or prior to January 13, 1957 you, a New Jersey retail liquor licensee, without authority or special permit, purchased or obtained alcoholic beverages from persons who were not the holders of any New Jersey manufacturer's or wholesaler's license, in that you obtained the aforesaid two bottles of Kirsebaer Liqueur Bedste Sort, three bottles of Specialite Cointreau Liqueur Angers, one bottle of Triple Orange Grand Marnier Liqueur, one bottle of Liqueur Fabriquee A La Gde. Chartreuse and one bottle of Pernod 45 Liqueur D'Anis Pernod Fils from so-called 'friends' who did not hold either of the above types of licenses; your obtaining alcoholic beverages from such persons being in violation of Rule 15 of State Regulation No. 20."

The facts constituting the basis for the charges filed herein are sufficiently set forth in the charges to obviate the necessity of further repetition.

The attorney for defendants in mitigation of penalty to be imposed herein stated that the various bottles of liqueur listed in Charge 2 of the charges filed herein were given to Louis Fiala by a ship steward who had obtained them while overseas and that Fiala had forgotten that they were on the licensed premises. Further, the attorney stated that Louis Fiala, who is the active licensee in the operation of the establishment, is well advanced in years and is presently suffering from a nervous tension resulting from a death in his family.

Although the explanation given by the attorney is understandable, it is not an excuse for licensees to conduct their licensed premises in violation of the Alcoholic Beverage Law and the Rules and Regulations of the Division.

Defendants have a prior adjudicated record. Effective April 15, 1936, when the license was in individual name of Louis Fiala, it was suspended by the local issuing authority for five days for (1) employing a minor as bartender, (2) possession of illicit alcoholic beverages, and (3) possession and use of gambling device. Again, effective January 10, 1956, defendants' license was suspended for five days by the local issuing authority for sale of alcoholic beverages in original containers for off-premises consumption in violation of Rule 1 of State Regulation No. 38. I shall not consider the 1936 violation in fixing the penalty herein because of the lapse of time therefrom. However, the similar violation for which defendants' license was suspended effective January 10, 1956, must be considered herein. I shall suspend defendants' license for thirty days on Charge 1 because this is a second similar violation committed within the past five years (Re Bartoszak, Bulletin 989, Item 5). Considering the mitigating circumstances and particularly the age and physical condition of the active licensee, I shall suspend defendants' license for an additional twenty days on Charges 2 and 3, thus making a total suspension of fifty days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty-five days.

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

ORDERED that Plenary Retail Consumption License C-9, issued by the Board of Alcoholic Beverage Control of the Town of North Bergen to Louis Fiala and Henry Fiala, t/a Louis Fiala Tavern, for premises 8527 Hudson Boulevard, North Bergen, be and the same is hereby suspended for forty-five (45) days, commencing at 3:00 a.m. May 6, 1957, and terminating at 3:00 a.m. June 20, 1957.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE
SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

HENRY N. YURCHO)
T/a YURCHO'S CAFE)
139 Genesee Street)
Trenton, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-201, issued by the)
Board of Commissioners of the City)
of Trenton.)

Henry N. Yurcho, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On February 14, 16, 23, March 7, 19, 22 and 26, 1957, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of horse race bets on February 23, March 19, 22 and 26, 1957; the making and accepting of bets in a lottery commonly known as the 'numbers game' on March 22 and 26, 1957; the playing of card games for stakes of money on February 14, 16, 23 and March 7, 1957; in violation of Rule 7 of State Regulation No. 20.

"2. On March 22 and 26, 1957, you allowed, permitted and suffered tickets and participation rights in a lottery commonly known as the 'numbers game', to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20.

"3. On March 19 and 26, 1957, you possessed, had custody of and allowed, permitted and suffered tickets and participation rights in a lottery, viz., in a drawing in connection with the playing of a bowling game, in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

The file herein discloses that on each occasion when ABC agents visited defendant's licensed premises on February 14, 16, 23 and March 7, 1957, they observed patrons of the establishment engaged in playing cards for money.

On March 22 and 26, 1957, the agents placed "numbers" bets with George, the bartender. On March 19 and 26, 1957, an agent played the bowling machine and on each occasion had a score over 200. The bartender told the agent to place a slip of paper with his name written thereon in a box as, at intervals, a name was drawn from the box and that person was entitled to a free bottle of whiskey.

On February 23, 1957, the agents observed the bartender, subsequently identified as George Yurcho, brother of the defendant, accept a sum of money from a patron in payment for a bet on a horse. Furthermore, on March 19 and 22, 1957, when George was again tending bar, he accepted bets on horses from various patrons and also from the two agents. At about 12:15 p.m. on March 26, 1957, the agents again visited defendant's licensed premises at which time the defendant was tending bar. The agents waved to George who was shaving in the kitchen. After a short time George left the premises and as he did, he informed the agents that he was going out to obtain a scratch sheet. About ten minutes thereafter, he returned and engaged in conversation with two male patrons. One of the agents had a slip of paper with the names of horses he desired to place bets on and also four \$1.00 bills in his hand in payment therefor. The defendant called to George to come over to where the agents were seated referring to them as "a couple of cash customers". George thereupon accepted the bets of the agent and also the bills (the serial numbers of which had previously been recorded). Thereafter, the other agent, after examining the scratch sheet which he had borrowed from George, placed bets on various horses and also paid him in bills from which the serial numbers had previously been recorded. A short time later, by pre-arrangement, two other agents and two police officers entered the premises and defendant shouted, "Watch it, George. Police!".

A search of the premises produced horse race slips and the "marked money" paid by the agents when placing their respective bets.

Defendant has no prior adjudicated record. Under the circumstances appearing in the instant case, I shall suspend his license for a period of forty days. Cf. Re DeLorenzo, Bulletin 1096, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

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

ORDERED that Plenary Retail Consumption License C-201, issued by the Board of Commissioners of the City of Trenton to Henry N. Yurcho, t/a Yurcho's Cafe, 139 Genesee Street, Trenton, be and the same is hereby suspended for a period of thirty-five (35) days, commencing at 2:00 a.m. April 30, 1957, and terminating at 2:00 a.m. June 4, 1957.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

NEHOC HOTEL MANAGEMENT CORP.)
T/a CLARENDON HOTEL)
705 Madison Avenue)
Lakewood, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-36, issued by the Township Committee of the Township of Lakewood.)

Nehoc Hotel Management Corp., Defendant-licensee, by Harry Cohen, President.

Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

The file herein discloses that on February 27, 1957, Thomas --- and Hugh ---, both eighteen years of age (serving in the Naval Air Force), purchased and consumed alcoholic beverages at defendant's licensed premises. Thomas was there from about 6:30 p.m., and Hugh from about 7:00 p.m., and both remained until 11:00 or 11:30 p.m. During this period Thomas consumed twelve to fourteen drinks of whiskey and 7-Up, and Hugh consumed about ten similar drinks, without either minor being asked his age or requested to sign any representation thereof. The matter came to the attention of the local police by reason of the arrest of Thomas for being drunk and disorderly.

Defendant has no prior adjudicated record. However, when the license for the premises was held by Harry Cohen (now president of the corporate-licensee) and Mollie Kornfeld, such license was suspended for twenty-five days, effective March 24, 1951, for the offense of "farming out" such license. Re Cohen and Kornfeld, Bulletin 901, Item 6; Bulletin 903, Item 4. This dissimilar violation which occurred over five years ago will not be considered in fixing the penalty herein. Re Morrisroe, Bulletin 1153, Item 5. In 1952 when the license for the premises was held by C.L.K., Inc., with Harry Cohen president of such corporation, its license was suspended for fifteen days by order dated May 8, 1952 (which order was later

made effective December 3, 1952), for permitting bagatelle or pinball machines on the licensed premises. Re C.L.K., Inc., Bulletin 936, Item 5. The minimum penalty for sale of alcoholic beverages to an eighteen-year-old minor, subsequent to January 16, 1956, is fifteen days. Re Vasapoli, Bulletin 1141, Item 2. Considering the quantity of alcoholic beverages sold to and consumed by the two minors, and the fact that they were in the licensed premises for four hours or more, I shall suspend defendant's license for twenty-five days (Re Tienken, Bulletin 1051, Item 7), and for an additional period of five days because of the dissimilar violation which occurred within the past five years, making a total suspension of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Defendant's business is conducted on a seasonal basis and the premises are usually closed on or about May 1, and remain closed until some time in the autumn. Thus no effective penalty can be imposed at the present time. The effective dates for the suspension will be fixed by a further order which will be entered by me if any license is issued to this defendant or to any other person for the premises in question, and after the licensed premises shall have been opened for business for the 1957-58 season.

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

ORDERED that any retail consumption license hereafter issued by the Township Committee of the Township of Lakewood to Nehoc Hotel Management Corp., t/a Clarendon Hotel, 705 Madison Avenue, Lakewood, or any license issued to any other person for the same premises, be and the same is hereby suspended for a period of twenty-five (25) days, the time to be fixed by subsequent order as aforesaid.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

DANIEL CZAPLICKI)
T/a DAN'S CORNER)
587 Ocean Avenue)
Jersey City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-56, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

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

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on Sunday, March 17, 1957, at about 9:30 p.m. and 11:45 p.m., 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, March 17, 1957, at about 9:00 p.m., two ABC agents entered the licensed premises wherein they observed ten patrons seated at the bar and John Arahill tending bar. At about 9:30 p.m. they saw the bartender make a sale of several cans of Rheingold beer to a patron for off-premises consumption. At about 11:45 p.m. one of the agents asked the bartender for three bottles of Fox Head Bock beer. Mr. Arahill thereupon took three bottles of aforementioned brand of beer from the cooler, placed them in a brown paper bag, handed the package to the agent and accepted \$1.05 in payment thereof. The agents then left the premises with the alcoholic beverages, returned to the same within a few minutes and identified themselves to the bartender who admitted aforesaid sale to the agent but denied the other sale to the patron.

In mitigation of penalty, the defendant has submitted a statement setting forth therein that he was not on the premises when the violations took place and that he had instructed his bartender to comply with all the rules and regulations pertaining to the alcoholic beverage industry.

The licensee cannot escape the consequences of aforementioned acts of his agent (Rule 33 of State Regulation No. 20). Cf. Re Nehoc Tavern, Inc., Bulletin 1149, Item 5.

Defendant has a prior adjudicated record. Effective October 15, 1956, his license was suspended by the Director of this Division for fifty days for the following violations: (1) selling alcoholic beverages in original containers for off-premises consumption; (2) conducting licensed premises and being open during hours prohibited by local regulations; (3) failure to permit clear view of bar in violation of local regulations; (4) permitting foul, filthy and obscene language and conduct on licensed premises in violation of Rule 5 of State Regulation No. 20, and (5) failure to facilitate and hindering and delaying an investigation in violation of R.S. 33:1-35 (Bulletin 1137, Item 3). The minimum suspension for an "hours" violation is fifteen days (Re Eckstein, Bulletin 1160, Item 5). Since the defendant committed a similar violation within five years, the penalty will be doubled (Re Berger Company, Inc., Bulletin 1108, Item 9). I shall suspend defendant's license for thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 24th day of April, 1957,

ORDERED that Plenary Retail Consumption License C-56, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Daniel Czaplicki, t/a Dan's Corner, for premises 587 Ocean Avenue, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. April 29, 1957, and terminating at 2:00 a.m. May 24, 1957.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 RICHARD D. BURT POST 202,
 AMERICAN LEGION
 Main Street (Apartment "R")
 Helmetta, N. J.,
 Holder of Club License CB-14,
 issued by the Director of the
 Division of Alcoholic Beverage
 Control.

CONCLUSIONS
 AND ORDER

 Richard D. Burt Post 202, American Legion, Defendant-licensee,
 by Herbert E. Richards, Jr., Adjutant.
 Dora P. Rothschild, appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to the following charge:

"On Sunday, January 6, 1957 between the hours of 10:30 a.m. and 11:00 a.m., you sold, served, delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and suffered the consumption of such alcoholic beverages on your licensed premises; in violation of Section 3 of an ordinance adopted by the Borough Council of the Borough of Helmetta on July 1, 1947, which prohibits any such activity between the hours of midnight Saturday and 1:00 p.m. on Sunday."

On Sunday, January 6, 1957 at about 11:05 a.m., an ABC agent entered the defendant's licensed club wherein he observed Charles Koehler (a member of the Post) acting as bartender and three other members sitting at the bar with a partially consumed bottle of Ballantine beer in front of each of them. After identifying himself, the agent obtained a sworn written statement from Koehler in which he states that he arrived at the licensed premises on January 6, aforesaid, at about 10:30 a.m.; that the other three members at the bar came in between 10:30 a.m. and 11:00 a.m.; that he served them the aforementioned beer which they were drinking; and that he knew such service was prohibited on Sundays before 1:00 p.m.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of fifteen days. (Cf. Re Weber, Bulletin 1068, Item 10). Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 15th day of April, 1957,

ORDERED that Club License CB-14, issued by the Director of the Division of Alcoholic Beverage Control to Richard D. Burt Post 202, American Legion, Main Street (Apartment "R"), Helmetta, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. April 22, 1957, and terminating at 9:00 a.m., May 2, 1957.

WILLIAM HOWE DAVIS
 Director.

8. DISCIPLINARY PROCEEDINGS - LICENSEE ACTUALLY OR APPARENTLY INTOXICATED WORKING ON LICENSED PREMISES - CONSUMPTION OF AND OPEN CONTAINER OF ALCOHOLIC BEVERAGES ON DISTRIBUTION PREMISES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN W. SILENCE)
 T/a DeLUXE WINE & LIQUOR STORE)
 7317 Ventnor Avenue)
 Ventnor City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-9, issued by the Common Council of the City of Ventnor City.)

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 Samuel Moskowitz, Esq., Attorney for Defendant-licensee.
 David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On January 31, 1957, you worked in and upon your licensed premises while actually or apparently intoxicated; in violation of Rule 24 of State Regulation No. 20.

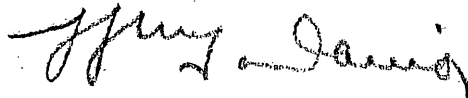
"2. On January 31, 1957, you allowed, permitted and suffered an alcoholic beverage to be consumed in and upon your plenary retail distribution licensed premises, and possessed and allowed, permitted and suffered an open container of an alcoholic beverage in and upon such licensed premises; in violation of Rule 14 of State Regulation No. 20."

The file herein discloses that ABC agents visited defendant's premises on January 31, 1957, at about 2:25 p. m. When they entered they observed the licensee drinking a bottle of beer and, as the agents approached the counter behind which the licensee was standing, the licensee placed the bottle of beer behind the counter and asked the agents what they would have. The agents further observed that the licensee was very unsteady on his feet, his eyes were bleary and his speech difficult to understand. Each agent reports that in his opinion the licensee was then intoxicated. After the agents had purchased two quarts of beer from the licensee, they disclosed their identities and seized the bottle of beer from which the licensee had been drinking at the time of their entrance.

Defendant has no prior adjudicated record. The records of the Division disclose very few cases involving a violation of Rule 14 of State Regulation No. 20. The facts in this case on which the charge is based are novel in that there was no sale for consumption on the premises, and the only person who consumed alcoholic beverages on the premises was the licensee himself. Under the circumstances of this case, and considering the otherwise clear record of defendant, I shall suspend his license for twenty days. Five days will be remitted for the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 15th day of April, 1957,

ORDERED that Plenary Retail Distribution License D-9, issued by the Common Council of the City of Ventnor City to John W. Silence, t/a DeLuxé Wine & Liquor Store, for premises 7317 Ventnor Avenue, Ventnor City, be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m. April 22, 1957, and terminating at 9:00 a.m. May 7, 1957.



William Howe Davis
Director.