

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

I. E. Amada

BULLETIN 1224

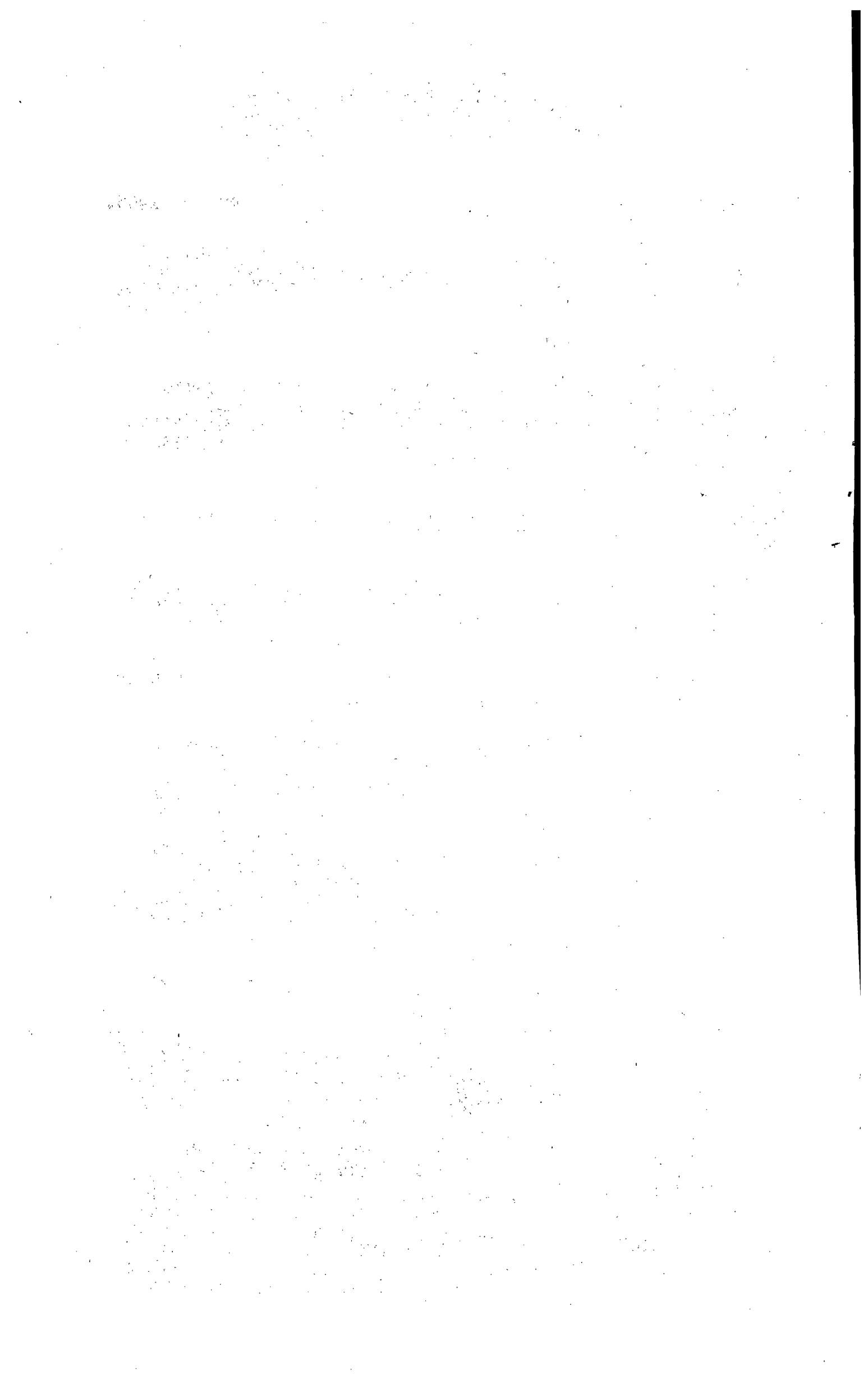
JUNE 3, 1958.

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Linden) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - HINDERING INVESTIGATION - CHARGE ALLEGING SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST DISMISSED - LICENSE SUSPENDED FOR 25 DAYS.
2. DISCIPLINARY PROCEEDINGS (Verona) - GAMBLING - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
3. DISCIPLINARY PROCEEDINGS (Passaic) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
4. DISCIPLINARY PROCEEDINGS (Mt. Ephraim) - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Newark) - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT ARTICLES) - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
6. SEIZURE - FORFEITURE PROCEEDINGS - UNLICENSED SALE OF BEER BY STEWARD ON CONSTRUCTION JOB - STOCK OF BEER AND EQUIPMENT ORDERED FORFEITED - MOTOR VEHICLE USED TO TRANSPORT BEER RETURNED UNDER SPECIAL CIRCUMSTANCES OF CASE.
7. DISCIPLINARY PROCEEDINGS (Maywood) - SUSPENSION REIMPOSED AFTER TERMINATION OF PROCEEDINGS TO REVIEW.
8. AUTOMATIC SUSPENSION (Clifton) - EFFECT THEREOF STAYED TO PERMIT LOCAL ISSUING AUTHORITY TO INSTITUTE AND DISPOSE OF DISCIPLINARY PROCEEDINGS.
9. DISCIPLINARY PROCEEDINGS (North Bergen) - HOSTESSES - CONTRACEPTIVES - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.
10. STATE LICENSES - NEW APPLICATIONS FILED.

New Jersey State Library



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

BULLETIN 1224

JUNE 3, 1958.

1. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - HINDERING INVESTIGATION - CHARGE ALLEGING SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST DISMISSED - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against

SALVATORE SORBERA &
EVELYN SORBERA
t/a SAM'S BAR
836 East Elizabeth Avenue
Linden, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-54, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden.

Robert W. Wolfe, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendants pleaded not guilty to the following charges:

'1. On Wednesday, October 30, 1957 at about 11:10 p.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., two 32 - ounce returnable bottles of Rheingold Extra Dry Lager Beer, at retail, in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of such beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

'2. On Wednesday, October 30, 1957 at about 11:10 p.m., at your licensed premises, you sold at retail the above mentioned two 32 - ounce returnable bottles of Rheingold Extra Dry Lager Beer, an alcoholic beverage, at less than the price thereof listed in the then currently effective pamphlet of New Jersey Minimum Consumer Resale Prices of Alcoholic Beverages published by the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30.

'3. On Wednesday, October 30, 1957 between 11:20 p.m. and 11:45 p.m., while Investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey were conducting an investigation, inspection and examination at your licensed premises, you failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation, inspection and examination; in violation of R. S. 33:1-35.'

"From the evidence given at the hearing held herein it appears that two ABC agents (hereinafter designated as Agent H and Agent S) entered defendants' premises at different times on the evening of October 30, 1957. They had been assigned to investigate a complaint that defendants were selling alcoholic beverages during prohibited hours. They took seats at the bar near each other. At that time Edward Schau was tending bar and Salvatore Sorbera was seated on the customer's side of the bar.

"Agent H testified that he purchased about three glasses of beer from the bartender at fifteen cents a glass; that at about 11:05 p.m. he asked the bartender for two quarts of Rheingold beer to take home; that the bartender told him to see Salvatore (who had gone to the kitchen) because he didn't want to sell 'without his OK;' that, when Salvatore returned from the kitchen to the bar, the agent repeated to him his previous request, whereupon Salvatore went to a refrigerator, placed two cans of beer in a paper bag and put the bag on the floor near the agent's stool. Admittedly, the agent did not pay for the beer at that time. Agent H further testified that, shortly thereafter, the bartender refilled his glass with draft beer and was told by the witness to take the price of this drink and the price of the two quart-bottles of beer from the money which the witness had left on the bar; that the bartender took a dollar-bill and said, 'I'll charge you a dollar for the two quarts and for this tap.' Agent H further testified that he then left the premises with the bag containing the two bottles of beer; that, on the outside, he met Agent S who had previously left the premises; that both agents then returned to the licensed premises and went to the kitchen where they identified themselves to Salvatore. As to Charge 3, Agent H testified that, after the identification, he removed the two bottles from the bag and placed them on top of a low freezer; that Salvatore then grabbed the bottles, raised them above his head and threw them on the concrete floor, saying at the same time, 'They slipped out of my hands, didn't they?' The result was that both bottles were broken but the agents seized the caps and the labels which were on the bottles.

"Agent S substantially corroborated the testimony of Agent H except that he testified that, when the bartender picked up the dollar-bill from the bar, he said, 'This will cover everything' and, on cross-examination, 'This will cover the whole works.'

"On behalf of defendants, Edward Schau testified that during the evening he served about six glasses of beer to Agent H and that the last glass was served about 10:30 p.m., at which time he took only fifteen cents from the agent's money on the bar. He denied that he had told Agent H to see Salvatore and stated that he knew nothing about the sale of the two bottles of beer until he heard the crash of bottles in the kitchen about 10:40 p.m. Salvatore Sorbera testified that, after the agent had asked for two bottles of beer to take across the street, he had placed the two bottles in the bag and had given the bag to the agent about 9:50 p.m.; that, when another patron asked for sandwiches, he went to the kitchen and forgot about the beer; that he did not see Agent H leaving the premises with the bag; that, when the agents came to the kitchen and identified themselves, he, with the intention of replacing the bottles in the refrigerator, reached for the bottles which the agent had placed on the freezer but the bottles slipped from

his hands and fell to the floor. He denied that he had lifted the bottles over his head and that he had thrown them on the floor. Norman Manzone, a patron, testified that he saw Salvatore give the bag to the agent about 9:50 p.m.

"After reviewing the testimony and the brief submitted by defendants' attorney, I conclude that the sale for off-premises consumption was made shortly after 11:00 p.m., as the agents testified. Hence I recommend that defendants be found guilty as to Charge 1. I conclude also that Salvatore Sorbera deliberately broke the two bottles and that, by his action in attempting to destroy the evidence, he at least failed to facilitate the investigation in this case. Hence I recommend that defendants also be found guilty as to Charge 3. In my opinion, however, the Division has not established guilt by a fair preponderance of the evidence as to Charge 2. The minimum consumer resale price then in effect for the two bottles of Rheingold beer was eighty-eight cents, and the violation is attempted to be spelled out by adding thereto fifteen cents for the glass of beer, thus making the total due one dollar and three cents whereas the bartender picked up only one dollar from the agent's money. Apparently, the price to be charged for the two bottles was never mentioned by Salvatore, Schau or Agent H. In fact, Agent H testified that, at that time, he did not know the minimum consumer price then in effect for the two bottles of Rheingold beer. He also testified that the bartender had treated him to a glass of beer earlier in the evening. Under all the circumstances, I do not believe it has been established that the two bottles were sold at less than the minimum consumer price. Hence I recommend that defendants be found not guilty as to Charge 2.

"Defendants have no prior record. It is further recommended that an order be entered suspending their license for fifteen days because of the violation set forth in Charge 1 (Re Lou's Tavern, Inc., Bulletin 1209, Item 4) and for ten days because of the violation set forth in Charge 3 (Re Callahan, Bulletin 1203, Item 9), thus making a total suspension of twenty-five days."

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

After carefully considering the facts and circumstances of the case, I concur in the findings and conclusions of the Hearer and adopt his recommendations. Hence I find defendants guilty of Charges 1 and 3, and not guilty of Charge 2, and shall suspend their license for twenty-five days.

Accordingly, it is, on this 31st day of March, 1958,

ORDERED that Plenary Retail Consumption License C-54, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden to Salvatore Sorbera & Evelyn Sorbera, t/a Sam's Bar, for premises 836 East Elizabeth Avenue, Linden, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. April 14, 1958, and terminating at 2:00 a.m. May 9, 1958.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

VERONA INN, INC.)
141 Bloomfield Avenue)
Verona, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Verona.)

-----)
Verona Inn, Inc., Defendant-licensee, by Albert T. Sandin, President.

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

BY THE DIRECTOR:

The defendant pleaded non vult to the following charge:

"On March 4, 6, 11 and 12, 1958, you allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets, in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20."

The file herein discloses that ABC agents were at defendant's licensed premises on Tuesday, March 4, 1958 from about 11:45 a.m. to about 1:05 p.m.; on Thursday, March 6, 1958, from about 11:45 a.m. to 12:50 p.m.; on Tuesday, March 11, 1958, from about 10:40 a.m. to about 12:40 p.m., and on Wednesday, March 12, 1958, from about 11:35 a.m. to about 4:00 p.m. On their first visit they observed an individual identified as Thomas R. Riccardi, seated at the bar between two men who were consulting the racing sections of newspapers. Shortly thereafter, one of these men was seen handing some money and a slip of paper to Riccardi who examined the same and then left the bar to use the telephone. After making the call, Riccardi returned to the bar and engaged in a similar transaction with the second man. On this visit the agents also observed that there were four incoming telephone calls, all of which were answered by Riccardi who made a written memo on each occasion. The agents then left the premises without identifying themselves. On their second visit the agents observed that the telephone rang four times and in each instance was answered by Riccardi. After each call Riccardi proceeded to the dining room and within a few minutes returned to the bar. A male, followed shortly by another, was seen handing a white slip of paper to Riccardi who carried it with him into the dining room. At about 12:30 p.m. another male entered the premises and inquired for Riccardi of the bartender who directed him to the dining room. Shortly thereafter, Riccardi and this latter individual emerged from the dining room and Riccardi was seen placing a folded slip of white paper in his pack of cigarettes. At 1:45 p.m. Riccardi went into the telephone booth, spoke for about five minutes and then proceeded to the dining room and later returned to his seat at the bar. Thereafter the agents left the premises without making their identities known. On the third visit, an agent observed Riccardi seated at the bar alongside of five patrons who were discussing horse racing. The agent joined the conversation by suggesting

to Riccardi that he would like to place a bet on Moon Jet in the Seventh race at Bowie. Riccardi replied he expected to receive the "scratch sheet" in about twenty minutes. At about noon hour an elderly male delivered a "scratch sheet" to Riccardi who gave the same to the agent. At about 12:25 p.m. the agent indicated to Riccardi he was ready to place a bet of \$4.00 on the aforementioned horse. Riccardi, followed by the agent, went to the men's room. The agent gave Riccardi \$4.00 and, upon receipt of the same, Riccardi said, "OK, you have two and two on Moon Jet." Thereafter, Riccardi informed the agent that he is available every day at the premises up to 5:00 p.m.; that he only "books" the bets he can handle and that when the betting gets heavy he turns them over to another "bookie". The agent returned to the bar, informed the bartender of the bet he made with Riccardi and then left the premises without disclosing his identity. On their last visit, the agents had "marked money" in their possession. They entered the premises and were greeted by Riccardi who informed them that the "scratch sheet" would arrive in ten minutes. Riccardi went into the kitchen to help the licensee prepare some food. At about 12:10 p.m. the aforementioned elderly male entered the premises with a William Armstrong Racing Sheet and gave it to one of the agents for delivery to Riccardi. This agent then wrote a bet (8th - Bowie, Perturbed 2-2-0) on a slip of white paper, walked into the kitchen and handed Riccardi the slip of white paper, the Armstrong Sheet and four "marked" dollar bills. Riccardi looked at the slip, returned it to the agent and said, "OK, tear it up. I don't need it." At 12:30 p.m. Riccardi returned to the bar and joined the agents, one of whom asked him for the use of the racing form. At 12:40 p.m. the second agent placed two "marked" bills (a five and a one) on the bar in front of Riccardi and said, "Give me two across on Scub, the Third at Bowie." At 12:50 p.m., as pre-arranged, two local police officers and an ABC agent entered the premises, identified themselves to Riccardi, the licensee and the bartender, and in the possession of Riccardi found \$52.50, including aforementioned six "marked bills".

By way of mitigation, the defendant has submitted a long statement which I have carefully examined, together with the reports of the agents and the file in the case. However, I do not find any extenuating circumstances in this case which would impel me to impose less than the established penalties in cases of this kind.

The defendant has no prior adjudicated record. Since there is no evidence that any agent or employee of defendant actively participated in the gambling activity, I shall suspend its license for twenty days, which is the minimum suspension imposed for violations of this character committed after January 16, 1956. Cf. Re Ditchcos, Bulletin 1128, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 10th day of April, 1958,

ORDERED that Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Verona to Verona Inn, Inc., for premises 141 Bloomfield Avenue, Verona, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. April 16, 1958, and terminating at 2:00 a.m. May 1, 1958.

WILLIAM HOWE DAVIS
Director.

3. 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

TOOLEY'S BAR, INC.
413 Monroe Street
Passaic, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-58, issued by the Board of Commissioners of the City of Passaic.

Irving J. Zwillman, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold during prohibited hours for off-premises consumption alcoholic beverages in their original containers, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that on Sunday, February 2, 1958, an ABC agent entered defendant's licensed premises and asked one of the bartenders for a pint of Calvert Reserve Blended Whiskey. Thereupon the bartender engaged in a discussion with another bartender concerning the advisability of making the sale since it was Sunday. The last-mentioned bartender vouched for the agent, and handed the agent the pint bottle of whiskey requested, accepted payment therefor, and told the agent to place the bottle in his pocket.

The agent left the premises with the bottle of whiskey, joined another agent who had remained outside, and both agents entered the premises, identified themselves and brought the violation to the attention of both bartenders.

Defendant has no prior adjudicated record. I shall suspend its license for fifteen days and remit five days for the plea entered herein, leaving a net suspension of ten days. See Re Lou's Tavern, Inc., Bulletin 1209, Item 4.

Accordingly, it is, on this 8th day of April, 1958,

ORDERED that Plenary Retail Consumption License C-58, issued by the Board of Commissioners of the City of Passaic to Tooley's Bar, Inc., for premises 413 Monroe Street, Passaic, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. April 14, 1958, and terminating at 3:00 a.m. April 24, 1958.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against)

KINGSWAY TAVERN, INC.)
1242 W. Kings Highway)
Mt. Ephraim, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Board of Commissioners of the Borough of Mt. Ephraim.)

Frank. M Lario, Esq., Attorney for Defendant-licensee:
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

The file herein discloses that on the evening of Saturday, February 8, 1958, two ABC agents observed a bartender serve a bottle of beer to one young man and a drink of vodka and orange juice to another young man at the bar. After observing the bartender serve two additional rounds of similar drinks to the young men, the agents identified themselves. Subsequent investigation disclosed that the young men were George --- (19 years of age) and Marvin --- (19 years of age). Both minors stated to the agents that the bartender had not questioned either of them before serving their drinks.

Defendant has no prior adjudicated record. In attempted mitigation the attorney for defendant states that a large number of patrons were present in the premises on the evening in question and that Joseph DiAntonio (president of the corporation) had checked the patrons as they entered the premises to ascertain if any were minors. The reports of the agents set forth that Joseph DiAntonio was at the door as they entered and that a large number of patrons were in the premises when the violation occurred. Admittedly, however, no written representation as to age was obtained from either of the minors. Hence no defense has been established under the provisions of R. S. 33:1-77. I shall suspend defendant's license for the minimum period of fifteen days (Re Farrell, Bulletin 1176, Item 2). Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 9th day of April, 1958,

ORDERED that Plenary Retail Consumption License C-3, issued by the Board of Commissioners of the Borough of Mt. Ephraim to Kingsway Tavern, Inc., for premises 1242 W. Kings Highway, Mt. Ephraim, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. April 21, 1958, and terminating at 3:00 a.m. May 1, 1958.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT ARTICLES) - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against IBERIA TAVERN & RESTAURANT, INC. 82-82 1/2 Ferry Street Newark 5, N. J., Holder of Plenary Retail Consumption License C-306, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS AND ORDER

Defendant-licensee, by Dominick Cardoso, Secretary. 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 it permitted lewd and indecent articles in and upon its licensed premises, in violation of Rule 17 of State Regulation No. 20.

The file herein discloses that on March 6, 1958, an ABC agent, while in the course of a routine inspection of defendant's licensed premises, found two suggestive and indecent rubber articles in a drawer of the back bar. Novel- ties of this type have no place on licensed premises. Re Mayo, Bulletin 1104, Item 9.

Although defendant corporate-licensee has no adjudica- ted record, it appears that when David Jose DePinho, President of and holder of 60% of the capital stock of defendant cor- poration, was a member of a partnership which held a liquor license, the license was suspended, effective January 5, 1953, for five days by the local issuing authority for sale of alco- holic beverages to a minor. Inasmuch as the violation occurred more than five years ago and is dissimilar in character to the violation now under consideration, it will not be considered in fixing the penalty to be imposed herein. Re Erceg, Bulletin 1214, Item 8.

The minimum suspension for possession of indecent mat- ter on a licensed premises is ten days. Re Mayo, supra. I shall suspend defendant's license for a period of ten days, less five days' remission for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 2nd day of April, 1958,

ORDERED that Plenary Retail Consumption License C-306, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Iberia Tavern & Restaurant, Inc., for premises 82-82 1/2 Ferry Street, Newark, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. April 14, 1958, and terminating at 2:00 a.m. April 19, 1958.

WILLIAM HOWE DAVIS Director.

6. SEIZURE - FORFEITURE PROCEEDINGS - UNLICENSED SALE OF BEER BY STEWARD ON CONSTRUCTION JOB - STOCK OF BEER AND EQUIPMENT ORDERED FORFEITED - MOTOR VEHICLE USED TO TRANSPORT BEER RETURNED UNDER SPECIAL CIRCUMSTANCES OF CASE.

In the Matter of the Seizure on) Case No. 9501
May 29, 1957 of a quantity of)
alcoholic beverages, a Kelvinator)
refrigerator, a Chevrolet sedan)
and \$39.45 in cash, at a temporary) ON HEARING
structure located at Bergen Mall,) CONCLUSIONS AND ORDER
Forest Avenue and Route 4, Borough)
of Paramus, County of Bergen and)
State of New Jersey.)

Chivian & Chivian, Esqs., by Louis Chivian, Esq., Attorneys for
General Motors Acceptance Corporation.
Joseph P. Dunn, Esq., Attorney for William J. Casey and Associate
Attorney for General Motors Acceptance Corporation.
I. Edward Amada, Esq., appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This matter came on for hearing pursuant to R.S. 33:1-66 and a stipulation dated June 10, 1957 signed by William J. Casey, and another stipulation dated June 27, 1957 signed by Joseph P. Dunn, Attorney for William J. Casey and General Motors Acceptance Corporation, to determine whether a quantity of alcoholic beverages, a Kelvinator refrigerator, \$39.45 in cash, and a Chevrolet sedan, described in a schedule attached hereto, seized on May 29, 1957, at a temporary structure located at Bergen Mall, Forest Avenue and Route No. 4, Paramus, New Jersey, constitute unlawful property and should be forfeited.

"Pending hearing in the case William J. Casey deposited \$25.00 and Joseph P. Dunn, Attorney for William J. Casey and General Motors Acceptance Corporation, deposited \$1,000.00, with the Director of the Division of Alcoholic Beverage Control, both deposits being made under protest, pursuant to R.S. 33:1-66. The \$25.00 deposit represents the appraised retail value of the Kelvinator refrigerator, and the \$1,000.00 deposit represents the appraised retail value of the Chevrolet sedan, both of which items were returned to William J. Casey upon the deposit of such sums. William J. Casey and General Motors Acceptance Corporation have stipulated that the Director determine in the present proceedings whether such sums should be forfeited, or returned, in whole or in part, to either of them.

"An appearance was entered at the hearing on behalf of William J. Casey, who sought return of the moneys deposited, and on behalf of General Motors Acceptance Corporation, which sought recognition of its lien on the motor vehicle, and payment of the balance due on its lien from the fund on deposit.

"Simply stated, it is alleged to be a typical case of the sale of beer by a shop steward or other person to workmen engaged in the erection of a building, and incidental thereto sales to ABC agents while investigating such activities. Seizure Case No. 7145, Bulletin 783, Item 6; Seizure Case No. 7532, Bulletin 862, Item 7; Seizure Case No. 7583, Bulletin 877, Item 8; Seizure Case No. 7884 (not reported in Bulletin).

"In all such cases relief from forfeiture has been denied, for the reasons, as recently stated, in Seizure Case No. 9382, Bulletin 1179, Item 5, that 'Where persons, otherwise law-abiding, have sold, or attempted to sell taxpaid alcoholic beverages without a license for a variety of reasons, including instances where it was merely for accommodation, it has been uniformly and consistently ruled that they knew or should have known that they were violating the law, and relief from forfeiture denied.'

"ABC agents were presented to establish the unlicensed sales of beer by William J. Casey. The substance of their testimony is as follows: They arrived in the vicinity of the carpenter's shack at the above location at about 11:50 a.m. on May 29th. Several workmen were seated outside the shack eating, and drinking beer. Other men on the inside of the shack ordered and received cans of beer from Casey, who was behind a counter. These men placed money on the counter, which Casey picked up and deposited in a box. One of the agents entered the shack and purchased two cans of beer from Casey, for which he paid Casey fifty cents with a dollar bill identified by serial number. The agent then left the shack, and joined three other agents who had been stationed outside. The four agents entered the shack, identified themselves, and Casey admitted the sale of the beer to the agent. They questioned Casey as to his practice of selling beer and he told them that he regularly sold beer to the carpenters on the job, and picked up the beer on his way to work, and transported the beer in his Chevrolet sedan, which was then parked alongside the carpenter's shop; that he paid \$4.40 a case for the beer and sold it for twenty-five cents a can. William J. Casey did not hold any license to sell alcoholic beverages, and the premises were not licensed for that purpose.

"The agents then seized the Kelvinator refrigerator and sixty cans of beer therein, and \$13.45, including the marked dollar bill, all of which were inside the shack, and the Chevrolet sedan, in the glove compartment of which there was found \$26.00 and a telephone bill in the amount of \$27.68.

"When the agents made the seizure, Casey gave them his signed statement wherein, among other things, the following questions and answers appear:

'Q Do you know who the investigator was when you sold him the two cans of beer?

A No, I took him for a steamfitter.

Q How much did you charge him for the two cans of beer?

A Twenty-five cents for each can.

Q How much beer did you sell? Average ten cans a day.

A That's right, ten or fifteen.

Q How did he pay you for the two cans of beer?

A He gave me a dollar.'

"Casey sold soda and his apprentice helper provided coffee and rolls at a weekly rate in the shack. In view of all of the

circumstances, Casey's afterthought in seeking to escape responsibility for the unlicensed sale of beer by claiming at the hearing that he was merely a channel whereby the carpenters contributed twenty-five cents each time they obtained a can of beer, and Casey used the accumulated fund to purchase more beer, and in some vague manner distributed for the welfare of the carpenters any overage between cost and their contributions, is neither logical nor established by his rambling testimony and that of his witnesses on that score. Similarly, his present claim (1) that he did not hand the beer to the agent, merely that such agent placed the dollar bill on the counter and he automatically reached for the money and gave fifty cents change without looking at the agent, or (2) that as shop steward he was required by custom of his union to supply the men with food and drink, must be rejected as at odds with the facts.

"It is my opinion that the evidence presented justifies the inference that the beer seized on May 29, 1957 was intended for unlawful sale, and hence is an illicit alcoholic beverage; that the Chevrolet sedan was used and intended to be used to transport such illicit beer, and hence the beer, Kelvinator refrigerator, and motor vehicle and \$13.45 in cash, constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(i) and (y), R.S. 33:1-2, R.S. 33:1-66.

"I therefore recommend that the application of William J. Casey for return of the money deposited under protest should be denied. However, the \$26.00 found in the glove compartment of the car should be returned to him because there is no evidence that it represents proceeds of the sale of alcoholic beverages.

"General Motors Acceptance Corporation presented in evidence a conditional sales contract dated April 9, 1955, which it holds by assignment, covering the purchase of the Chevrolet sedan in question by William J. Casey, securing an unpaid balance of \$2218.68. The present balance due on such contract after rebate for prepayment is \$488.75.

"Before accepting such contract and extending credit to Mr. Casey the finance company was informed that he resided at an address in Hackensack, was employed as a carpenter and millwright by a nearby industrial concern, and was furnished with the names of business and personal references.

"The finance company checked such information, which included obtaining a report from an independent investigating agency, which reported that Casey was considered a good account by two financial institutions; was employed as a union carpenter for fifteen years, with an annual income of \$6,000.00, gave other details of his background and set forth no derogatory information.

"It therefore appears that General Motors Acceptance Corporation acted in good faith and did not know or have any reason to suspect that Casey would use the motor vehicle to transport beer for unlawful sale. I therefore recommend that the lien claim of General Motors Acceptance Corporation against the Chevrolet sedan to the extent of \$488.75 should be recognized, and ordered paid from the fund on deposit.

"I further recommend that the beer and \$13.45 in cash, which was seized, be declared forfeited, and the Chevrolet sedan

and Kelvinator refrigerator declared to be unlawful property, and the balance of the money on deposit representing the retail value of such items be declared forfeited and disposed of in accordance with law."

I have received a letter from the attorney for William J. Casey which I shall accept as exceptions to the Hearer's Report. I have carefully examined the evidence herein and the Hearer's Report.

I am in accord with the principles cited by the Hearer whereby relief from forfeiture is denied to a person who has sold alcoholic beverages without a license. Such principles are hereby reaffirmed and, therefore, I adopt the Hearer's recommendations as my Conclusions, to wit: that the seized beer, \$13.45 in cash and the \$25.00 on deposit representing the retail value of the Kelvinator refrigerator should be forfeited, and the sum of \$26.00 found in the glove compartment of William J. Casey's Chevrolet sedan be returned to him.

However, there are various considerations, one newly developed, which must be considered in relation to the deposit of \$1,000.00 representing the retail value of such seized Chevrolet sedan. This car was seized on the sole basis of the voluntary admission by Casey that he had used the car to transport beer sold at the premises. While this fact in itself is not an obstacle to forfeiture, it places Casey in a favorable light. It is entirely probable that he had no idea that his car could be forfeited by reason of such transportation. Such ignorance would not be a defense to forfeiture in a case involving the transportation of illicit alcoholic beverages, an aggravated violation of the Alcoholic Beverage Law. In the instant case Casey was transporting legitimate beer and was not engaged in a commercial transaction, such as the cited instances where purveyors of food and drink on construction jobs were earning a livelihood therefrom. Casey was earning a substantial income as steward and in accommodating the workers by the sale of beer, was not advancing any business venture in which he was engaged. Hence, ignorance of the law, in so far as forfeiture of the motor vehicle is concerned, may perhaps be an acceptable consideration. Furthermore, it appears that Casey has since the hearing paid General Motors Acceptance Corporation its lien on the motor vehicle which was to be paid out of the funds on deposit. Forfeiture of the deposit would thus entail the loss to Casey of the full amount of \$1,000.00. This would be a very harsh penalty and, therefore, under the particular circumstances in the case, I shall not adopt the Hearer's recommendation as to the disposition of the aforesaid deposit of \$1,000.00, but instead, shall return such sum to William J. Casey, after deducting costs of seizure and storage of such motor vehicle.

Accordingly, it is DETERMINED and ORDERED that the costs of the seizure and storage of the Chevrolet sedan, more fully described in Schedule "A" attached hereto, be deducted from the deposit of \$1,000.00, and the balance thereof, together with the additional sum of \$26.00, be returned to William J. Casey; and it is further

DETERMINED and ORDERED that the balance of the seized property listed in such Schedule "A", including the sums of \$13.45 in cash, and the deposit of \$25.00 representing the refrigerator, constitute unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66 and the cash be disposed of in accordance with law, and the other forfeited property retained for the use of

hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
Director.

Dated: March 28, 1958.

SCHEDULE "A"

- 60 - cans of beer
- 1 - Kelvinator refrigerator
- 1 - Chevrolet sedan, Serial No. 46943,
New Jersey Registration BR16X
\$39.45 in cash

7. DISCIPLINARY PROCEEDINGS - SUSPENSION REIMPOSED AFTER TERMINATION OF PROCEEDINGS TO REVIEW.

In the Matter of Disciplinary Proceedings against

OLYMPIC, INC.
125 Essex Street
Maywood, N. J.,

ORDER

Holder of Plenary Retail Consumption License C-4 (for the 1956-57 and 1957-58 licensing years), issued by the Borough Council of the Borough of Maywood.

BY THE DIRECTOR:

On September 10, 1957, the defendant's license was suspended for a period of thirty days. See Bulletin 1190, Item 4; Bulletin 1194, Item 7. Upon appeal to the Superior Court, Appellate Division, an order was entered by the Court staying the suspension pending the outcome of the appeal. By decision dated March 17, 1958, the suspension was affirmed and, thus, the penalty may now be reimposed.

Accordingly, it is, on this 31st day of March, 1958,

ORDERED that the suspension of thirty (30) days, heretofore imposed upon Plenary Retail Consumption License C-4, issued by the Borough Council of the Borough of Maywood to Olympic, Inc., for premises 125 Essex Street, Maywood, be and the same is hereby reimposed, commencing at 2:00 a.m. April 7, 1958, and terminating at 2:00 a.m. May 7, 1958.

WILLIAM HOWE DAVIS
Director.

8. AUTOMATIC SUSPENSION - EFFECT THEREOF STAYED TO PERMIT LOCAL ISSUING AUTHORITY TO INSTITUTE AND DISPOSE OF DISCIPLINARY PROCEEDINGS.

In the Matter of a Petition to Lift Automatic Suspension of Plenary Retail Distribution License D-9, issued by the Municipal Board of Alcoholic Beverage Control of the City of Clifton to)

ON PETITION ORDER

JOSEPH N. POLING and JEANETTE POLING t/a VILLAGE WINE & LIQUORS 285 Piaget Avenue Clifton, N. J.)

Alfonse J. DeRose, Esq., Attorney for Petitioners.

BY THE DIRECTOR:

The petition herein discloses that on March 25, 1958, Joseph N. Poling (one of the licensees) was fined the sum of \$100.00 and costs after he had pleaded guilty in the Municipal Court of the City of Clifton to a charge of selling alcoholic beverages to two minors. Such conviction resulted in the automatic suspension of the license held by Joseph N. Poling and Jeanette Poling. R. S. 33:1-31.1. Because the Division was informed that the licensees intended to apply for a stay of said suspension, the license has not yet been picked up.

The purpose of the automatic suspension is to ensure that, when a licensee is convicted in a criminal court for violating the Alcoholic Beverage Law, there is swift and sure penalty against the licensee. Re Panasevitz, Bulletin 485, Item 3.

I have been informed that the Municipal Board of Alcoholic Beverage Control of the City of Clifton has instituted or intends to institute disciplinary proceedings against the licensees for the same sale of alcoholic beverages but that said Board will not meet in regular session until April 28, 1958. In fairness to the licensees, the effect of the automatic suspension will be stayed pending the entry of a further order herein. Cf. Re Faessler, Bulletin 920, Item 15.

If the local issuing authority dismisses the charge in the disciplinary proceedings, a supplemental petition to lift the automatic suspension immediately may be filed with me; or, if the local issuing authority imposes a suspension in the disciplinary proceedings, a supplemental petition to lift the automatic suspension at the expiration of said suspension may be filed with me.

Accordingly, it is, on this 27th day of March, 1958,

ORDERED that the aforesaid automatic suspension be stayed pending the entry of a further order herein.

WILLIAM HOWE DAVIS
Director.

9. DISCIPLINARY PROCEEDINGS - HOSTESSES - CONTRACEPTIVES - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

HOLIDAY LOUNGE, INC.)
7051 Hudson Boulevard)
North Bergen, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-36, issued by the Board of Alcoholic Beverage Control of the Township of North Bergen.)

Defendant-licensee, by Fred C. Weiss, President.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging in substance that it permitted hostesses and permitted the presence of contraceptive devices on its licensed premises, both in violation of State Regulation No. 20.

The file herein discloses that three ABC agents were at defendant's licensed premises on the evening and early morning hours of February 21-22, February 26-27, on March 1 and in the evening and early morning hours of March 5-6, 1958. On all such occasions the agents observed that female entertainers and a female hat-check girl employed by the licensee accepted drinks at the expense of patrons. On their first visit the agents purchased drinks for Roseair (one such entertainer) and observed Joy (another entertainer) accept drinks from other males; on their second visit the agents purchased drinks for Roseair and Carole (also an entertainer); on their third visit they purchased drinks for Carole and observed the hat-check girl accept drinks from other men, and on their last visit the agents purchased drinks for Roseair and Carole.

On such last occasion the ABC agents identified themselves to Roseair and Carole, to Fred C. Weiss who was present, and to Louis Puncerelli (the bartender who had also been on duty on two of the previous visits of the agents).

The agents obtained a signed and sworn statement from Roseair to the effect that she accepts drinks at the expense of only her friends, aside from the agents, and an unsigned statement from Carole that, when she was employed at the premises by the previous owners about a year ago, she was requested by one of them to sit with the different men but, since her return to such employment about a week ago, nobody connected with the present operation of the business made a similar request.

During the course of the inspection of the premises after revealing their identity, one of the agents discovered in a small closet under the bar three contraceptive devices.

Defendant has a prior adjudicated record. Effective March 30, 1958, its license was suspended by the local issuing authority for an "hours" violation. I shall suspend its license

for thirty days for the violations involved (Re Pleasant Hour Cocktail Lounge, Inc., Bulletin 1096, Item 2), to which five days will be added by reason of the dissimilar violation within the past five years (Re Suburban Tavern, Inc., Bulletin 1213, Item 2), making a total suspension of thirty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 14th day of April, 1958,

ORDERED that Plenary Retail Consumption License C-36, issued by the Board of Alcoholic Beverage Control of the Township of North Bergen to Holiday Lounge, Inc., for premises 7051 Hudson Boulevard, North Bergen, be and the same is hereby suspended for thirty (30) days, commencing at 3:00 a.m. April 21, 1958, and terminating at 3:00 a.m. May 21, 1958.

WILLIAM HOWE DAVIS
Director.

10. STATE LICENSES - NEW APPLICATIONS FILED.

Beverages Unlimited

366 St. Georges Avenue, Rahway, N. J.

Application filed May 28, 1958 for person-to-person transfer of State Beverage Distributor's License SBD-32 from William Robert Shaiman, t/a Beverages Unlimited.

Boller's Beverages, Inc.

433-35-37-39-441-43-438-40-44-46 E. Jersey Street
Elizabeth, N. J.

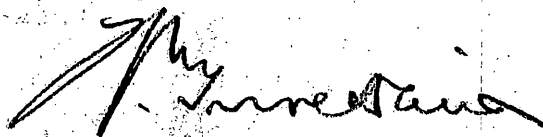
Application filed May 28, 1958 for place-to-place transfer of Plenary Wholesale License W-7 from 433-35-37-441-43-42-44-46 E. Jersey St., Elizabeth, N. J.

Cameron Craig Ltd.

t/a Cameron International Ltd., International Brands and Imported Beers, Ltd.

Room 515, 60 Park Place
Newark, N. J.

Application filed May 29, 1958 for person-to-person transfer of Plenary Wholesale License W-102 from Lee I. Gann and William S. Konecky, t/a International Brands.



William Howe Davis
Director.