

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

BULLETIN 1374

January 19, 1961.

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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 1374

January 19, 1961.

1. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - SALE IN VIOLATION OF LOCAL REGULATION - SALE BEYOND TERMS OF LICENSE - PRIOR RECORD - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary )  
Proceedings against )

Bedrock, Inc. )  
t/a Billy's Tavern )  
1060 Magnolia Avenue )  
Elizabeth 4, New Jersey )

CONCLUSIONS

AND

Holder of Plenary Retail Consumption )  
License C-163, issued by the City )  
Council of the City of Elizabeth. )

ORDER

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Emanuel M. Ehrenkranz, Esq., Attorney for Defendant-licensee.  
David S. Piltzer, Esq., Appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant has pleaded not guilty to the following charges:

- '1. On Sunday, January 31, 1960, you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., a pint bottle of Old Hickory Bourbon Whiskey, at retail in its original container for consumption off your licensed premises and you allowed, permitted and suffered the removal of such alcoholic beverage from your retail licensed premises; in violation of Rule 1 of State Regulation No. 38.
- '2. On Sunday, January 31, 1960 between the hours of 3:00 A.M. and noon, you sold and delivered alcoholic beverages upon your licensed premises; in violation of Section 8 of an Ordinance adopted by the Mayor and City Council of the City of Elizabeth on March 5, 1952, as amended by Ordinance of December 8, 1952.
- '3. On Sunday, January 31, 1960, you sold an alcoholic beverage not pursuant to and within the terms of your plenary retail consumption license as defined by R. S. 33:1-12(1), contrary to R. S. 33:1-26 and R.S. 33:1-1(w), in that you sold an alcoholic beverage at a place other than your licensed premises, viz., an auto parked on the public street in front of your licensed premises; in violation of R. S. 33:1-2.'

"To substantiate the charges, the Division called as its witnesses three ABC agents who participated in the investigation of defendant's licensed premises.

"Briefly stated, their testimony shows that at 9:05 a.m.,

Sunday, January 31, 1960, they parked their car across the street from defendant's tavern in front of which a group of men were milling around. Some of the men handed money to a man, later identified as Otis Patton (one of defendant's bartenders), who from time to time would enter the hallway adjacent to the barroom and admit one of the men. Within minutes the men who had been admitted would emerge 'with their hands in their pockets and with a bulge'. At about 10:00 a.m., Patton seated himself in a car parked in front of the premises and shortly thereafter, a car pulled up and parked on the opposite side of the street and to the rear of the agents' car. A man, later identified as Waverly Laws, got out, crossed the street and took a seat alongside of Patton in the latter's car and after a brief conversation, Patton left the car and entered the hallway. He soon returned and handed Laws a pint of whiskey and accepted some currency in exchange. Laws then proceeded to his car and was apprehended by two of the agents. The other agent sought to apprehend Patton who eluded him by running into the hallway of the premises. The agents then seized a pint bottle of Old Hickory Bourbon Whiskey from Laws and proceeded with him to the barroom entrance. Gaining admission they informed Rubin Bedrock, an employee of the licensee, of the violations and showed him the bottle of whiskey they had seized from Laws, who stated that he had paid Patton \$3.00 for it. Rubin told the agents that he was unaware that a man was selling alcoholic beverages in or out of the hallway and that he didn't know the person who was making the sales. The agents' testimony further shows that David Bedrock (president of the corporate-licensee) arrived in response to Rubin's phone call and, when informed of what transpired, he looked at his brother Rubin and said, 'I told you not to do anything like that any more', to which Rubin made no reply and walked away. David then stated that Patton had been employed by him as a bartender on and off for about four years; that he used to live upstairs but didn't any more and then remarked, 'Gee! This makes the third time I have been caught for the same thing.' The agents' testimony further shows that on Friday evening, February 12, 1960, they returned to defendant's licensed premises and in the presence of David Bedrock, questioned Patton who told them that on January 31, 1960 he had given a bottle of Old Hickory Whiskey to Laws as a loan to be returned and that he had borrowed the whiskey from a tenant in the building named Rogers, who, he said, had purchased a quantity of liquor in preparation for a birthday party which failed to materialize.

"Witnesses appearing for defendant-licensee were Otis Patton, George Rogers, Jr., Rubin Bedrock and David Bedrock.

"Patton testified in substance that he resides at 321 Jefferson Avenue, Elizabeth, but has a room with a tenant who lives on the second floor of the licensed building; that he is employed as a bartender with the corporate-licensee and works on Friday and Saturday nights and on Sunday afternoons; that on the date alleged he met and conversed with as many as twelve friends outside the licensed premises, some of whom 'walked into my home' and that he didn't sell any of them whiskey or accept money from them. He testified further that at 8:00 a.m. on the Sunday in question, he had parked his car in front of the licensed premises and, commencing at about 9:00 a.m., he made several trips to his room to tend to a pot of 'hog maws' he was cooking; that at 10:30 a.m. he got into his car and started the motor; that Laws approached him and asked him to loan him a bottle of whiskey; that he told Laws that he didn't have any but would ask Rogers, who lives on the third floor of the licensed building, to accommodate him; that he entered the vestibule of the hallway adjacent to the barroom and, seeing Rogers emerge from his bathroom, he asked him for a bottle of whiskey; that Rogers complied and he left the building, handed the whiskey to Laws, then shut off the motor of his car and went to his

room where he remained until 12 noon, at which time he commenced his tour of duty as a bartender.

"Rogers' testimony corroborates that of Patton respecting Patton's request for a loan of a bottle of whiskey and his compliance therewith; that Patton occupies a room over the licensed premises whenever he works late and that on the Saturday following the incident, Patton returned to him a bottle of Old Hickory Bourbon Whiskey.

"Rubin Bedrock testified that he and three others were cleaning up the licensed premises in the morning of the Sunday in question; that when the agents knocked on the window, he admitted them; that the agents accused him of selling whiskey to Laws and that Laws told them that he didn't get the bottle from him; that he didn't see Patton that day until 12 o'clock noon and that when Patton came on duty he didn't question him about the alleged sale although he knew before the agents left that it was Patton whom they had accused of making the unlawful sale.

"David Bedrock testified that in response to a telephone call, he arrived at the licensed premises around 10:30 a.m., Sunday, January 31, 1960, and that one of the agents told him that Rubin had been caught selling whiskey; that he walked over to Rubin and said, 'I thought I told you not to do anything like that'; that the agents then told him that it was Patton who had sold the whiskey and that when Patton came on duty he asked him about the incident and that Patton told him that he had borrowed the whiskey from Rogers and had given it to Laws. He testified further that he is an officer of a corporation which owns the licensed building and described the layout of the licensed premises and admitted that the corporate-licensee was suspended on two previous occasions for 'hours' violations.

"In a memorandum submitted by defendant, it is contended that there was no sale of liquor by the licensee; that the loan of liquor was not made on the licensed premises and that Patton was not on duty at the time of the transaction.

"It is apparent from the certified copy of defendant's license application for the 1959-60 license year and the diagram attached thereto which were received in evidence, that the vestibule and hallway of the licensed building are, in fact, part of the licensed premises.

"Admittedly, Patton, on the morning of the date alleged, was an agent and an employee of the licensee and it is clear from the evidence that on several occasions that morning he went into the licensed premises and that on one of those occasions he emerged therefrom carrying a sealed bottle of Old Hickory Bourbon Whiskey which he handed Laws in exchange for currency. It is also clear from Patton's own testimony and that of the agents, that several men were admitted by Patton into the licensed premises during prohibited hours. Although there is no direct evidence that Patton sold or delivered alcoholic beverages to those men, it may reasonably be inferred from the surrounding circumstances and the direct sale to Laws (See R. S. 33:1-1(w)) that Patton was at the time performing extra and unlawful services in behalf of the corporate-licensee which must be held accountable for its agents' activities. See Rule 33 of State Regulation No. 20.

"Having carefully considered all the facts and circumstances herein, I find that Patton's account of his transactions with Laws and Rogers, his testimony as to his occupancy of a room in the licensed building (denied by David Bedrock), his story of cooking a pot of 'hog Maws' in another person's kitchen are so

fantastic as to engender disbelief. On the contrary, I find that the testimony of the agents reflects what actually transpired and I conclude that the Division has sustained the burden of proof as to defendant's guilt by the necessary preponderance of the believable evidence. I recommend, therefore, that defendant be found guilty of the violations charged.

"The minimum penalty imposed for the violations set forth herein is a suspension of the license for a period of thirty days. Re Moscatello, Bulletin 1327, Item 8. However, defendant has a prior adjudicated record. Effective March 5, 1956 and May 6, 1958, its license was suspended by the local issuing authority for ten and twenty days, respectively, for 'hours' violations. In view of the prior record of two similar violations which occurred within a five-year period, I recommend further that defendant's license be suspended for a period of sixty days. Re Woodlawn Bar & Grill, Inc., Bulletin 1060, Item 2."

Written exceptions to the Hearer's Report and written argument thereto were filed with me by both the attorney appearing for the Division and the attorney for the defendant-licensee, the former arguing that the recommended penalty of sixty days license suspension is insufficient, the latter contending that the recommended finding of guilt should not be accepted or, in the alternative, the recommended penalty should be reduced.

After carefully considering the entire record herein, including the transcript and exhibits, the Hearer's Report, the briefs submitted and the exceptions and written arguments with respect to the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 29th day of December 1960,

ORDERED that plenary retail consumption license C-163, issued by the City Council of the City of Elizabeth to Bedrock, Inc., t/a Billy's Tavern, for premises 1060 Magnolia Avenue, Elizabeth, be and the same is hereby suspended for sixty (60) days, commencing at 2 a.m. Monday, January 9, 1961, and terminating at 2 a.m. Friday, March 10, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (FEMALE IMPERSONATORS) - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against )

Murphy's Tavern, Inc. )  
135 Mulberry Street )  
Newark 2, New Jersey, )

CONCLUSIONS

Holder of Plenary Retail Consumption License C-461 (for the 1959-60 licensing year), issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )

AND

ORDER

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George R. Sommer, 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:

"Two separate proceedings were instituted against defendant herein. On November 19, 1959, the following charge was served upon defendant:

On October 24, 30 and November 8, 1959, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered thereon persons, males impersonating females, who appeared to be homosexuals; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.

"Defendant pleaded not guilty and hearings upon said charge were held on March 14, 1960, and March 17, 1960.

"On May 20, 1960, before any determination was made in the first proceedings, the following additional charges were served upon defendant:

On May 6, 13 and 14, 1960, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene conduct in and upon your licensed premises, viz., in that you allowed, permitted and suffered male persons on your licensed premises to engage and participate in foul, filthy and obscene conduct and to solicit and make overtures for and arrangements with other male persons on your licensed premises for acts of perverted sexual relations; in violation of Rule 5 of State Regulation No. 20.

On May 6, 13 and 14, 1960, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance, viz., in that you allowed, permitted and suffered persons, males impersonating females, who appeared to be homosexuals in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner

offensive to common decency and public morals, in violation of Rule 5 of State Regulation No. 20.

"Defendant pleaded not guilty to the additional charges and hearings thereon were held on July 14, 1960, and September 7, 1960.

"At the hearings held upon the original charge, two ABC agents (hereinafter identified as Agent R and Agent S) testified on behalf of the Division.

"Agent R testified that, acting upon a complaint that defendant's premises were an alleged hang-out for homosexuals, he and Agent S visited the premises on October 24, October 30 and November 8, 1959. He testified that on their first visit they entered about 9:40 p.m. and left about 10:55 p.m.; that Joseph Yeachshino, Cal Lubertazzi and another male were tending bar; that about twenty of the forty male patrons then present attracted his attention because of their effeminate actions and mannerisms, and that one of these patrons carried a white square case with flowered designs. He testified that on their second visit they entered about 9:10 p.m. and left about 11:30 p.m.; that Joseph and Cal and other males were tending bar; that about fifteen of the forty male patrons attracted his attention because of their effeminate actions and mannerisms; that he saw some of them holding hands and some of them kissing. He testified that on their third visit they entered about 12:35 a.m.; that Joseph, Cal and Theodore Hirsch were tending bar; that about twenty of the seventy male patrons attracted his attention because of their effeminate actions and mannerisms; that some of these patrons hugged each other, held hands and talked in high-pitched voices; that about 2 a.m. he said to Cal, 'All the kids were in tonight', to which the bartender replied, 'Yes; you can see that for yourself'; that he and Agent S then identified themselves and that Cal said, during subsequent questioning, that 'You can see that in any straight bar. I can serve them as well as I can serve you.'

"When Agent S was called, it was stipulated that his testimony on direct examination would be the same as that given by Agent R. On cross examination he stated that the mannerisms of and conversations between the patrons referred to led him to believe that they were homosexuals.

"On behalf of defendant, Joseph Yeachshino testified that he was tending bar on each of the evenings in question. He denied that he knew any of the patrons were homosexuals. He admitted that some of the patrons had feminine characteristics but stated that none of them annoyed other patrons or acted in an improper manner. Carmine (heretofore referred to as Cal) Lubertazzi testified that he was tending bar and saw the agents in the premises on each of the evenings in question. He testified that he never saw any persons who were known to him to be homosexuals on the premises. He admitted that some patrons spoke with high-pitched voices but denied that any patron had acted in an improper manner. He denied seeing a male patron with a female handbag. As to the conversation with Agent R on November 8, he testified that, when the agent referred to 'kids' in the premises, he believed the agent was referring to young people and not to homosexuals. He denied the balance of the conversation. Theodore Hirsch testified that he was tending bar on November 8 but did not observe any improper conduct or see any patrons of the type described by the agent.

"On behalf of defendant, Jack Tractenberg testified that he is vice-president of defendant corporation. He stated that he was present on October 24 and 28, and that a few of his patrons may have some effeminate characteristics but that they never bother other customers. He testified that the Newark Police Department had defendant's premises under surveillance for undesirables for about six months in 1959 but were unable to identify any undesirables. Al Thoma (an athletic director) testified that it is not possible to conclude that a person is a homosexual merely because he has some female characteristics.

"At the hearings held upon the additional charges, four ABC agents testified. The principal testimony was given by one of the agents hereinafter identified as Agent D. He testified that he entered the premises at about 9:40 p.m. on May 6, 1960; that Cal Lubertazzi, Jack Schultz and Bruce Adams tended bar during the evening; that about one-half of the thirty-five patrons attracted his attention because of effeminate mannerisms; that some of these patrons sat in groups and referred to each other as 'Mary', 'Drag', 'Honey' and 'Dearie'; that one patron spilled a drink and another patron said 'Oh! My sister has big elbows;'; that he had a conversation while seated at the bar with a male patron who introduced himself as James --- and who rubbed his leg during the conversation and asked him if he was going to return when he left the premises about 11:30 p.m.

"Agent D further testified that he returned to the premises at about 9:50 p.m. on May 13, 1960; that Cal, Jack and Bruce tended bar during the evening; that about thirty-five patrons were in the premises when he entered, and that the number thereafter increased to sixty; that about ninety per cent. of these patrons attracted his attention because of their effeminate mannerisms; that he sat at the bar with James --- who introduced him to other males known as Bill, Joe and Fred; that, while one or more of the bartenders were nearby, Bill and Joe talked about orgies they had conducted with other males, and Fred asked if he could sleep with the agent. Agent D further testified that, during the evening, he told Cal he was going to have a sex orgy and Cal walked away; that about midnight he asked the bartender Bruce for a drink and told him that he and James --- were going out for a sex orgy; that he and James --- left the premises together at about 12:20 a.m. and were stopped outside by other ABC agents. When the agents and James --- returned to the premises, the agents identified themselves to Bruce and Jack. Agent D testified that, during subsequent conversation, James --- stated that he and the agent were only going for a drink elsewhere and that Bruce admitted that he had heard the conversation about sex orgies but thought they 'were only kidding.' The testimony of Agent D as to the mannerisms of the majority of the patrons was substantially corroborated by two other ABC agents who were in and out of the premises during the evening. One of these other agents testified that he heard some of these patrons use the words 'Honey', 'Doll', 'Mary', when referring to one another.

"On behalf of defendant, Jack Schultz testified that he is manager of the premises; that he was present on both evenings and that nothing improper occurred on either evening. Carmine Lubertazzi testified that nothing unusual occurred on May 6; that on May 13 he saw Agent D and James -- in a group; that nothing unusual occurred and that Agent D tried to converse with him but he ignored the agent. He denied that he saw any homosexuals in the premises, but admitted that some patrons had effeminate mannerisms. James --- came from his home in another State and stated that he was testifying 'to clear my name.' It appears that he is about thirty years of age, unmarried, holds a responsible position and apparently has a fine educational background. He testified that

he resided in Newark for a few months in the early part of 1960; that on May 6 he was in the premises when Agent D entered and sat beside him; that they conversed on general topics for about one and one-half hours; that there was nothing improper about his conduct, and that they did not discuss abnormal sex relations. He further testified that on May 13 he was in the premises when Agent D entered and sat beside him; that they conversed for about two hours; that the agent also conversed with another group at the bar, but that there was no conversation about abnormal sexual activity between the agent and him or between the agent and those in the other group, none of whom he knew. He admitted that he left at about the same time as Agent D, but stated that they left to have a drink elsewhere before he went home. He denied he was a homosexual.

"In his briefs defendant's attorney calls attention to the admitted fact that all male patrons wore male attire. He argues that the evidence does not establish that any patron was in fact a homosexual and that the evidence is not sufficient to establish the nuisance charges. These arguments are fully answered in the decision of Judge Jayne in Paddock Bar, Inc. v. Division of Alcoholic Beverage Control, 46 N.J. Super. 405 (App.Div. 1957), wherein it is said:

'If the evidence here failed adequately to prove that the described patrons were in fact homosexuals, it certainly proved that they had the conspicuous guise, demeanor, carriage, and appearance of such personalities. It is often in the plumage that we identify the bird. The psychiatrist constructs his deductive conclusions largely upon the ostensible personality behavior and unnatural mannerisms of the patient.'

"Moreover the nuisance charges are established by the evidence which shows that these persons were permitted to congregate on the premises habitually and in inordinate numbers.

"After reviewing the evidence and the briefs submitted, I conclude that the Division has established defendant's guilt as to all charges by a fair preponderance of the believable evidence. It is recommended, therefore, that defendant be found guilty as charged.

"Defendant has a prior record. Effective March 15, 1954, its license was suspended for twenty days for sales to intoxicated persons. However, since this dissimilar violation occurred more than five years ago, it will not be considered in fixing penalty herein. Under all the circumstances of this case, it is recommended that an order be entered suspending the license which defendant holds for the 1960-61 licensing year for a period of sixty days. Re The Paddock Bar, Inc., Bulletin 1159, Item 2; Re Savoy Club, Inc., Bulletin 1289, Item 7."

Written exceptions to the Hearer's Report and written argument as to said exceptions were filed with me by defendant's attorney, pursuant to Rule 6 of State Regulation No. 16.

After carefully considering all the evidence herein and the briefs, exceptions to Hearer's Report and written argument filed by defendant's attorney, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein. Hence I find defendant guilty as charged. I shall suspend defendant's license for a period of sixty days, as recommended.

Accordingly, it is, on this 27th day of December 1960,



in the horse-race pool on October 22.

In a sworn, written statement Gavenas admitted that for the past three weeks he has been booking horse-race bets and operating a horse-race pool (on Saturdays) on the licensed premises.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty-five days, the minimum suspension in a case of this kind when a licensee or employee is involved. Re Hammer, Bulletin 1140, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 29th day of December 1960,

ORDERED that plenary retail consumption license C-43, issued by the Municipal Board of Alcoholic Beverage Control of the Town of West Orange to Alfred Gavenas, t/a Circle Inn, for premises 250 Main Street, West Orange, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, January 10, 1961, and terminating at 2 a.m. Monday, January 30, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED -  
PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

Stanley Perlowski )  
t/a Perlowski Tavern )  
432 Grove Street )  
Jersey City 2, New Jersey )

CONCLUSIONS  
AND

Holder of Plenary Retail Consumption License C-250, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

ORDER

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Defendant-licensee, Pro se.  
William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On October 20, 1960, an ABC agent tested defendant's open bottles of alcoholic beverages and seized a half-gallon bottle of "Seagram's Seven Crown American Blended Whiskey 86 Proof" for further tests by the Division's Chemist. Analysis by the Chemist disclosed that the contents of the seized bottle, when compared with the contents of a genuine bottle of the same product, varied substantially in solids.

Defendant has a prior record. Effective April 16, 1952, his license was suspended by the Acting Director for twenty days for selling during prohibited hours and beyond the scope of his license. Bulletin 932, Item 7. Effective March 23, 1953, his

license was suspended by the Director for ten days for failure to have a copy of his license application on the premises. Bulletin 961, Item 9. Effective October 1, 1958, the local issuing authority suspended his license for thirty days for selling during prohibited hours and selling to a female at the bar, and, effective March 29, 1959, the local issuing authority suspended his license for sixty days for allowing his business to be used in furtherance of an illegal activity (accepting stolen merchandise). The minimum period of suspension in a case of this kind involving one bottle is ten days. Re Cascio, Bulletin 1363, Item 6. Considering defendant's past record, and particularly his two dissimilar violations during the past five years, I shall suspend his license for twenty-five days. Five days will be remitted for the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 21st day of December, 1960,

ORDERED that Plenary Retail Consumption License C-250, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Stanley Perlowski, t/a Perlowski Tavern, for premises 432 Grove Street, Jersey City, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m., Tuesday, January 3, 1961, and terminating at 2:00 a.m., Monday, January 23, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - GAMBLING - CONTRACEPTIVES- LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
Vincent T. Spagnolia  
t/a Silver Tavern  
142-144 Speedwell Avenue  
Morristown, N. J.  
Holder of Plenary Retail Consumption License C-15, issued by the Mayor and Board of Aldermen of the Town of Morristown.

CONCLUSIONS  
AND  
ORDER

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Defendant-licensee, Pro se.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On October 20 and 27, 1960, 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.
- "2. On October 27, 1960, you possessed prophylactics against venereal disease and contraceptives and contraceptive devices in and upon your licensed premises; in violation of Rule 9 of State Regulation No. 20."

At 9:05 a.m., Thursday, October 20, 1960, two ABC agents visited defendant's licensed premises wherein they observed the licensee and some of his patrons perusing the racing sections of newspapers and heard them conversing about race tracks and horses. The agents further observed the aforesaid patrons recording on white slips of paper what appeared to be bets which they handed, together with money, to Dominick Sparano, the bartender. The agents then placed a two-dollar bet with Sparano and later left the premises. At 9:30 a.m., Thursday, October 27, 1960, the same agents visited defendant's licensed premises. The licensee was in charge and Sparano was tending bar. Patrons were reading the racing sections of newspapers and discussing horses and from time to time they would go into the men's room, presumably to record their bets. At 10:15 a.m., the agents asked for and received from Sparano a piece of paper and a pen and went into the men's room. Returning to the bar they handed Sparano a horse bet slip and eight dollars in "marked" bills which Sparano put in his pocket. At 10:50 a.m., the agents gave another horse bet slip and four more "marked" bills to Sparano. One of the agents then left the premises and signalled his supervisor, three local police officers and two county detectives who had, in accordance with plans, remained outside. All of them entered the premises and when Sparano saw the officers he ran to the men's room and attempted to flush the bet slips down the toilet. However, most of the slips were retrieved by an agent who had followed him and among them were found the slips given to Sparano by the agents. Upon request, Sparano emptied his pockets in which he had \$192 including the "marked" money. The agents and police then searched the premises and located a shirt in the pocket of which were more horse bet slips. They also found a quantity of contraceptives in the bar area. The licensee admitted that the shirt was his and said that he intended to give the slips to patrons who were going to the race track that day so they could place the bets for him. Respecting the contraceptives, he said: "I don't sell them. If a guy gets stuck, I give them away."

Defendant has no prior adjudicated record. I shall suspend his license for the minimum period of twenty-five days on Charge (1) inasmuch as commercialized gambling is involved and was participated in by the licensee and his employee. An additional ten days will be imposed for the violation set forth in Charge (2), making a total suspension of thirty-five days. Re Tuzzo, Bulletin 1355, Item 4 and Re Martin, Bulletin 1360, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 27th day of December 1960,

ORDERED that Plenary Retail Consumption License C-15 issued by the Mayor and Board of Aldermen of the Town of Morristown to Vincent T. Spagnolia, t/a Silver Tavern, for premises 142-144 Speedwell Avenue, Morristown, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m., Monday, January 9, 1961 and terminating at 2:00 a.m., Wednesday, February 8, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

6. 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  
 William Bromiley  
 t/a 600 Cafe  
 600 S. 6th Street  
 Camden 3, New Jersey  
 Holder of Plenary Retail Consumption License C-92, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

CONCLUSIONS  
 AND  
 ORDER

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 Defendant-licensee, Pro se.  
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On Friday, November 4, 1960, between 10:05 and 10:15 p.m., two ABC agents, while in defendant's licensed premises, observed William Bromiley, the licensee, make three sales of alcoholic beverages for off-premises consumption. At about 10:25 p.m., one of the agents made a similar purchase of a six-pack of Schlitz beer from the licensee and, accompanied by the other agent, left the premises with the alcoholic beverages. The agents immediately returned to the premises and identified themselves to the licensee who admitted the unlawful sale to the agent.

Defendant has no prior adjudicated record. I have considered the mitigating circumstances urged by the defendant and do not find any justification therein for imposing less than the minimum penalty for the violation involved.

I shall suspend his license for the minimum period of fifteen days and remit five days for the plea entered herein, leaving a net suspension of ten days. Re Anello, Bulletin 1355, Item 8.

Accordingly, it is, on this 28th day of December 1960,

ORDERED that Plenary Retail Consumption License C-92, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to William Bromiley, t/a 600 Cafe, for premises 600 S. 6th Street, Camden, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, January 9, 1961 and terminating at 2:00 a.m., Thursday, January 19, 1961.

WILLIAM HOWE DAVIS  
 DIRECTOR

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

In the Matter of Disciplinary )  
Proceedings against )

Waldron Inc. )  
t/a Wally's Corner Tavern )  
332 Henderson Street )  
Jersey City 2, New Jersey )

CONCLUSIONS

AND

Holder of Plenary Retail Consumption )  
License C-264, issued by the Municipal )  
Board of Alcoholic Beverage Control of )  
the City of Jersey City. )

ORDER

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Louis N. Freeman, 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 a charge alleging that it possessed on its licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

On November 3, 1960 an ABC agent tested defendant's open bottles of alcoholic beverages and seized, among other bottles, a 4/5 quart bottle labeled "Seagram's Ancient Bottle Golden Distilled Dry Gin, 90 Proof" for further test by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of the seized bottle, when compared with the contents of a genuine bottle of the same brand, varied in color and solids.

Defendant has no prior adjudicated record. I shall suspend its license for ten days, the minimum period where one bottle is involved. Re Cascio, Bulletin 1363, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 28th day of December 1960,

ORDERED that Plenary Retail Consumption License C-264, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Waldron Inc., t/a Wally's Corner Tavern, for premises 332 Henderson Street, Jersey City, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m., Saturday, January 7, 1961 and terminating at 2:00 a.m., Thursday, January 12, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

8. 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  
 Sanford Inn, A Corporation  
 t/a Sanford Inn  
 853 Summit Avenue  
 Jersey City 7, New Jersey  
 Holder of Plenary Retail Consumption License C-460, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS

AND

ORDER

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Defendant-licensee, by Carmine DeLucia, Treasurer.  
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On Sunday, November 13, 1960, at about 2:15 p.m., ABC agents who were in defendant's premises observed Frank DeLucia (the bartender) make a sale of six twelve-ounce cans of beer to a male patron. When the patron left with the beer through a rear door, the agents followed him and stopped him outside. All returned to the premises where the patron, in the presence of the bartender, admitted that he had purchased the beer.

Defendant has no prior record. However, when Carmine DeLucia (an officer and stockholder of defendant corporation) held a license for premises in Union City, his license was suspended by the local issuing authority for five days, effective March 23, 1952, for sales to minors. Since this dissimilar violation occurred more than five years ago, it will not be considered in fixing penalty herein. Re Hastings, Bulletin 1358, Item 7. I shall suspend defendant's license for the minimum period of fifteen days. Re Marino, Bulletin 1359, Item 8. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 28th day of December, 1960,

ORDERED that plenary retail consumption license C-460, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Sanford Inn, A Corporation, t/a Sanford Inn, for premises 853 Summit Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, January 9, 1961, and terminating at 2:00 a.m., Thursday, January 19, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

9. AUTOMATIC SUSPENSION - LICENSE PREVIOUSLY SUSPENDED BY DIRECTOR - APPLICATION TO LIFT GRANTED.

Auto. Susp. #189 )  
In the Matter of a Petition by )

John J. Stefanski )  
t/a Jack's Tavern )  
506 Washington Avenue )  
South Amboy, N. J., )

On Petition

O R D E R

To Lift the Statutory Automatic )  
Suspension of License C-23, issued )  
by the Common Council of the City )  
of South Amboy. )

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George G. Kress, Esq., Attorney for Petitioner

BY THE DIRECTOR:

It appears from the petition filed herein that on October 17, 1960, petitioner pleaded non vult in the Superior Court of New Jersey, Middlesex County, to an indictment charging him with sale of alcoholic beverages to a minor, in violation of R.S. 33:1-77, and was fined the sum of \$50. Said conviction resulted in the automatic suspension for the balance of its term of License C-23, now held by petitioner. R.S. 33:1-31.1. The license was not picked up because of the pendency of these proceedings.

By order dated May 25, 1960, I suspended the license which petitioner then held for twenty days, effective from 2 a.m. Wednesday, June 1, 1960, to 2 a.m. Tuesday, June 21, 1960, after finding him guilty in disciplinary proceedings of a charge alleging that he sold alcoholic beverages to the same minor. Bulletin 1345, Item 7. Under the circumstances, I shall grant petitioner's request to lift the automatic suspension.

Accordingly, it is, on this 22nd day of December 1960,

ORDERED that the statutory automatic suspension of License C-23, now held by John J. Stefanski, be and the same is hereby lifted and said license is restored to full force and operation, effective immediately.

  
William Howe Davis  
Director