

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

BULLETIN 1252

DECEMBER 15, 1958.

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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 1252

DECEMBER 15, 1958.

1. DISCIPLINARY PROCEEDINGS - OBSCENE LANGUAGE AND CONDUCT -
HOSTESSES - SALE TO WOMEN OVER BAR IN VIOLATION OF LOCAL
ORDINANCE - POSSESSION OF LEWD PRINTED MATTER - PRIOR
RECORD - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

MORRIS DIANGELO)
t/a CLUB LIDO)
1418 Broadway)
Camden, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-29, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Camden.)

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

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that
(1) he allowed, permitted and suffered obscene language and
conduct in and upon his licensed premises, in violation of
Rule 5 of State Regulation No. 20; (2) he permitted females
employed on his licensed premises to accept beverages at the
expense of patrons, in violation of Rule 22 of State Regula-
tion No. 20; (3) he served beverages to women directly over a
bar in his licensed premises, in violation of a local ordi-
nance, and (4) he permitted on his licensed premises and had
in his possession lewd pictures with filthy expressions printed
thereon, in violation of Rule 17 of State Regulation No. 20.

The file herein discloses that on Friday, June 27, 1958,
ABC agents entered defendant's licensed premises at 9:05 p.m.
and remained until 2:25 a.m. the following morning. During
their stay they observed two barmaids employed therein and two
female "entertainers" who frequently lifted their dresses above
their heads, exposed their breasts, indulged in "bumps and
grind" dances and engaged in filthy and obscene remarks. Fur-
ther, the barmaids were observed serving drinks to women at the
bar, in violation of a local ordinance, and on one occasion
each "entertainer" jumped upon the lap of an agent, entwined
her legs about his waist and simulated the act of sexual inter-
course. At 1:40 a.m. the agents identified themselves to the
barmaid, the "entertainers" and to Martin DiAngelo (brother of
the licensee and manager of the licensed premises), all of whom
declined to give signed statements. Morris DiAngelo arrived at
1:50 a.m. and, being informed of the violations, stated that he
spends his time in his other licensed premises in Pennsauken
and leaves the management of the premises herein to his brother.
He stated further that they just started the "entertainment" a
few weeks ago to help better the business.

The file further discloses that on July 29, 1958, other ABC agents visited defendant's licensed premises and during their stay observed a different barmaid and a different "entertainer" engage in indecencies and violations similar to those reported by the ABC agents who visited the premises on June 27, 1958. At about 12:35 a.m. the following morning the agents identified themselves and seized three obscene drawings which the barmaid had previously exhibited to them, to Martin DiAngelo and to others. None of the participants in the violation would give a signed statement, and the licensee, who arrived after the agents had identified themselves, stated that he was seldom on the premises, the running of which he leaves to his two brothers.

The privilege of selling alcoholic beverages at retail to the public is one that is granted to the few and denied to the many (Paul v. Gloucester, 50 N.J.L. 585) and must be exercised in the public interest. A licensee is under a duty to exercise close supervision over his licensed premises, and violations occurring therein cannot be excused because he had no personal knowledge of them. Rule 33 of State Regulation No. 20; Stein v. Passaic, Bulletin 451, Item 5; Essex Holding Corp. v. Hock, 136 N. J. L. 28. Considering the nature and number of the violations permitted in and upon the licensed premises herein, and the repetition of those violations within so short a period of time, it is obvious that defendant has shown not only a callous disregard for State and local regulations but has demonstrated a complete lack of appreciation for and understanding of fundamental decencies and proprieties in the operation of his licensed business.

Defendant has a prior adjudicated record. Effective March 10, 1947, his license was suspended for thirty days by the Director for permitting lewdness and immoral activities on his licensed premises (Bulletin 753, Item 4) and, in addition, his license for premises 4457 Marlton Pike, Pennsauken Township, was suspended for twenty days by the Director effective May 1, 1951, for (a) permitting females at his bar and (b) hindering an investigation (Bulletin 906, Item 10). The prior similar violation in 1947 will not be considered in fixing the penalty herein. However, the prior similar violation in 1951, having occurred within a ten-year period, warrants the imposition of an additional five days' suspension. I shall suspend defendant's license for thirty days on Charges 1 and 4 (Re Moscato, Bulletin 1145, Item 2); twenty days on Charge 2 (Re DiDonna & Rotondo, Bulletin 1223, Item 2) and five days on Charge 3 (Re Len-Ton, Inc., Bulletin 1243, Item 7), making a total suspension of sixty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifty-five days.

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

ORDERED that Plenary Retail Consumption License C-29, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Morris DiAngelo, t/a Club Lido, for premises 1418 Broadway, Camden, be and the same is hereby suspended for fifty-five (55) days, commencing at 2:00 a.m. October 29, 1958, and terminating at 2:00 a.m. December 23, 1958.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - NUISANCE - PERMITTING PERSONS USING MARIJUANA TO CONGREGATE ON PREMISES - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against)

WHITE HOUSE INN, INC.)
41 Main Street)
East Orange, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-8 (for the 1957-58 and the 1958-59 licensing years), issued by the Municipal Board of Alcoholic Beverage Control of the City of East Orange.)

Saul C. Schutzman, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On April 18, 19, 20, 26, 30, May 1, 3, 4, 10, 11, 14, 15, June 6, 7 and 13, 1958, and on divers other days, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you, through a person employed as a bartender on your licensed premises, made offers to patrons and customers on your licensed premises to procure marihuana for them and made offers to arrange for and arranged for the purchase of marihuana by them; and by yourself, agents, servants and employees allowed, permitted and suffered persons on your licensed premises to make overtures and arrangements for the purchase and sale of marihuana; allowed, permitted and suffered persons who indulged in or appeared to indulge in the use of marihuana 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."

The file herein discloses that ABC Agents J, W, M and D were assigned to investigate defendant's licensed premises. It appears from their reports that Agents J and W gained the confidence of the licensee's bartender, hereinafter referred to as Charles, who introduced Agent W to two "pushers" from whom he purchased marijuana cigarettes at \$1.00 each. It further appears that the arrangements for obtaining the cigarettes and the introductions to the "pushers" were made on the licensed premises. The purchase of the "sticks" (marijuana) was made elsewhere.

More specifically and chronologically, the reports show that on April 18, 1958, Agent J sought information from Charles as to where he could obtain some "sticks" and was told that it was too "hot" for the "pusher" who used to come around.

On April 19, 1958 Charles introduced Agent W to a man called "Bud" who drove the agents to a tavern in another city where he said he would get him the "stuff". The venture was unsuccessful.

On April 26, 1958 Charles informed Agent W that "Bud" would be in and that four "cats" in the booth were waiting for him. "Bud" failed to appear on the occasion and on the following day when Agent W returned.

On May 3, 1958 Agent W observed "Bud" talking to Irving Dubow (49 per cent stockholder in defendant corporation) and, when he had concluded, Charles called him over and, after a brief conversation, "Bud" beckoned to Agent W and said "let's go". Agent W thanked Charles and he and "Bud" departed. "Bud" then drove Agent W to a private home which he alone entered and, when he emerged, he handed the agent two marijuana cigarettes and accepted \$2.00 in payment. As he was leaving he said to the agent "This is good stuff, I can get you a lot for \$20.00".

On May 10 and 14, 1958 Agent W returned to the licensed premises but was unable to contact "Bud". On the latter occasion, he told Charles that he was going over to "Bud's" house to get some "stuff" and that Charles, indicating his approval, said "I'll see you later".

On June 6, 1958 Charles introduced Agent W to a male called "Jimmy" from whom the agent sought to purchase a few "sticks", but "Jimmy" said "sorry, nothing happening". When the agent left the premises and was proceeding towards his car, "Jimmy" approached him and told him that since Charles said he was all right he would get him five "sticks" for \$5.00. The agent accepted the offer and both drove to a house in a nearby city which "Jimmy" entered and, returning therefrom, handed the agent three marijuana cigarettes and accepted \$3.00 in payment. "Jimmy" drove the agent to the vicinity of defendant's tavern where he left him, saying "If you want some more stuff ask Charles, he has my telephone number".

On June 13, 1958 Agents W and J returned to defendant's premises and inquired of Charles if "Bud" or "Jimmy" was around. Charles informed them that "Bud was here earlier. Jimmy don't come around very much, but wait around, I may be able to do something for you". Agent W then related to Charles what "Jimmy" had said about getting his phone number from Charles. The agent was given the number which Charles requested him to call because he was busy at the time. Agent W complied and, being told by "Jimmy" that he would meet both agents later at a designated point, he returned to his seat and told Charles of the arrangement. Later, Agent W told Charles that Agent J was suspicious about the product handled by "Jimmy" and Charles allayed his doubts stating that "Jimmy's stuff is the real thing". Shortly thereafter, Agents M and D and two local detectives entered the premises, searched a room which Charles said was his, and found therein some fountain pens alleged to have been stolen. Charles was taken to police headquarters where, in the presence of the four agents, he stated that he had been working as a bartender in defendant's licensed premises for three years, during two of which he had introduced to "Bud" patrons who were looking for narcotics. He further stated that he had introduced the agents to the "pushers" for the purpose of buying narcotics; that he knew "Bud" had been arrested for possessing drugs illegally and that he knew the licensee had been warned by the police to keep "Bud" out of the licensed premises. Later, Irving Dubow appeared at police headquarters and stated that he was unaware of the bartender's illegal activities, but admitted that about six weeks previously the police warned him to keep "Bud" out of his premises because he was a drug addict and a "pusher".

As clearly appears from the charge preferred herein, and the foregoing recital of facts, the licensed premises was a focal point for narcotics activity, complete with active involvement of an employee and obvious full derivative knowledge of the licensee through its employee and a principal stockholder who had been expressly warned by local police of the proclivities of one of the "pushers".

Although this is the first disciplinary proceeding instituted by this Division wherein a licensee has been charged with permitting the licensed business to be conducted as a nuisance when the nature of the nuisance is narcotics activity, it is clear that such activity is a nuisance within the intendment of applicable Rule 5 of State Regulation No. 20. Cf. Santore v. West New York, Bulletin 958, Item 2, wherein it was held that permitting licensed premises to be used as a place to plan an armed robbery and to cache the proceeds constituted a nuisance proscribed by the Rule. It was there said, quoting from the leading decision in Alpine Village Tavern, Inc. v. Newark, Bulletin 629, Item 3:

"The State regulations prescribe rules of conduct which licensees are duty bound to observe. The word 'nuisance' as it is used in Rule 5 of State Regulation No. 20 is not to be restricted by technical definitions applicable in criminal cases. One readily apparent reason for this distinction is that the licensee is engaged in the exercise of a privilege, not a property right. Accordingly, in defining the word 'nuisance', I am not unmindful of its everyday usage. The word 'nuisance' has been defined as 'an offensive, annoying unpleasant or obnoxious thing, practice or person; a cause or source of annoyance.' Webster's New International Dictionary."

Since this is a case of first impression, I have given considerable thought to the penalty to be imposed. Certainly, narcotics activity with its degrading personal and social consequences cannot be tolerated on liquor licensed premises. The tavern must not become the handmaiden of the traffic in narcotics, nor the pub the partner of the "pusher". Had there been evidence of actual sale of narcotics by a responsible officer or employee of the licensee, outright revocation of the license might well be warranted. However, under all the facts and circumstances herein, including the confessional plea to the charge and the licensee's clear previous record, I shall suspend the license for a period of sixty days. If experience demonstrates the need, penalties in future similar cases will be rigorously increased.

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

ORDERED that Plenary Retail Consumption License C-8, for the 1958-59 licensing year, issued by the Municipal Board of Alcoholic Beverage Control of the City of East Orange to White House Inn, Inc., for premises 41 Main Street, East Orange, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 a.m. November 10, 1958, and terminating at 2:00 a.m. January 9, 1959.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - PERMITTING CONSUMPTION OF ALCOHOLIC BEVERAGES AND POSSESSING OPEN CONTAINER ON PREMISES OPERATED UNDER A PLENARY RETAIL DISTRIBUTION LICENSE - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

THEODORE LAMBREW)
t/a LLEWELLYN MARKET)
56 Main Street)
West Orange, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Municipal Board of Alcoholic Beverage Control of the Town of West Orange.)

-----)
Theodore Lambrew, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to the following charges:

"1. On September 17, 1958, you allowed, permitted and suffered alcoholic beverages to be consumed in and upon your licensed premises; in violation of Rule 14 of State Regulation No. 20.

"2. On September 17, 1958, you possessed and allowed, permitted and suffered an open container of an alcoholic beverage, viz., an opened 4/5 quart bottle labeled PM National Distillers Blended Whiskey, in and upon your licensed premises; in violation of Rule 14 of State Regulation No. 20.

"3. On September 17, 1958, you sold at retail a one-half gallon bottle of Fiori Di California Brand California Burgundy Scelto, an alcoholic beverage, at less than the price thereof listed in the then currently effective Minimum Consumer Resale Price List published by the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30."

The file herein discloses that on September 17, 1958 an ABC agent entered defendant's licensed premises, ordered a sandwich, and asked the licensee for a drink of whiskey. The licensee obtained a bottle labeled "PM National Distillers Blended Whiskey" from the beer cooler and poured a drink of whiskey therefrom for the agent. The agent paid the licensee 25 cents for the sandwich and 30 cents for the whiskey. When another person entered the premises, the licensee told the agent to hurry up and finish the drink because he was not acquainted with such person. Afterwards, the agent ordered from the licensee another drink of whiskey which was served to him and for which he paid the licensee. Another agent who had remained outside entered the premises, greeted the first agent and was served by the licensee with a drink of whiskey and a sandwich, for which he paid the licensee.

While the licensee was preparing his sandwich, this agent discussed with him the price of various brands of wine,

including the cost of one-half gallon of Fior Di California Brand California Burgundy Scelto, which the licensee offered to sell for \$1.50, stating that it sells for \$1.79. The agent then purchased a half-gallon of this wine for \$1.50. The minimum consumer resale price then in effect for this wine was \$1.55.

Both agents then revealed their identity. Thereupon, the licensee acknowledged that he sold the aforementioned drinks of whiskey to the agents, but claimed that he sold the wine for \$1.59.

Defendant has no prior adjudicated record. Although it is a serious violation that warrants the imposition of a severe penalty, it appears the licensee has held his license since repeal, is elderly and crippled and had only one opened bottle of whiskey on the premises. Under these circumstances, I shall suspend defendant's license for a period of thirty days on Charges 1 and 2, and shall suspend his license for an additional period of ten days on Charge 3, making a total suspension of forty days. 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 October, 1958,

ORDERED that Plenary Retail Distribution License D-1, issued by the Municipal Board of Alcoholic Beverage Control of the Town of West Orange to Theodore Lambrew, t/a Llewellyn Market, for premises 56 Main Street, West Orange, be and the same is hereby suspended for thirty-five (35) days, commencing at 9:00 a.m. November 3, 1958, and terminating at 9:00 a.m. December 8, 1958.

WILLIAM HOWE DAVIS
Director.

- 4. DISCIPLINARY PROCEEDINGS - POSSESSING LIQUOR NOT TRULY LABELED - CHARGES ALLEGING SALE TO MINOR AND EMPLOYMENT OF UNQUALIFIED PERSON DISMISSED - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA, ON CHARGE OF POSSESSING LIQUOR NOT TRULY LABELED.

In the Matter of Disciplinary Proceedings against
WILLIAM WILCOX
S/S of Egg Harbor Road Above
Mail Avenue
Deptford Township
PO RD Sewell, N. J.,
Holder of Plenary Retail Consumption License C-8, for the 1957-58 and 1958-59 licensing years, issued by the Township Committee of the Township of Deptford.

CONCLUSIONS
AND ORDER

Wallace, Yeomans, Douglas and Gerry, Esqs., by Bruce A. Wallace, Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Charges were preferred against defendant alleging that (1) on March 29, 1958, and on divers dates prior thereto he sold, served and delivered alcoholic beverages, directly or indirectly, to a minor and permitted the consumption of such beverages by said minor in and upon his licensed premises, in violation of Rule 1 of State Regulation No. 20; (2) on April 8, 1958, he employed and had connected with him in a business capacity an unqualified person, in violation of Rule 1 of State Regulation No. 13, and (3) on April 8, 1958, he possessed in and upon his licensed premises a bottle of unlabeled liquor, in violation of Rule 27 of State Regulation No. 20. Defendant pleaded not guilty to Charges 1 and 2, and non vult to Charge 3.

"With respect to Charge 3, the file discloses that on the date alleged an ABC agent found a two-quart unlabeled mason jar with approximately ten ounces of untaxed alcohol in David Wilcox's living quarters, which are part of the defendant's licensed premises. David (son of the licensee herein) stated that he purchased the liquor for the purpose of making himself some egg-nog.

"At the hearing on Charges 1 and 2, the Division called as its witnesses Robert --- (a minor), two State troopers and an ABC agent. Robert testified that on March 29, 1958, when he was 19 years of age, he entered defendant's licensed premises a little after midnight, and some time later departed therefrom with a State trooper; that during his stay he consumed bottled beer which was served to him by an unidentified bartender who required no written proof of his age. On cross-examination he testified that he visited the offices of defendant's attorney on June 16, 1958, and told the attorney that he didn't purchase any beer in defendant's tavern on the specific date alleged; that he had been drinking all afternoon with friends at his home; that he was under the influence of intoxicating liquor and couldn't remember everything and that he didn't know where he got the beer. On redirect examination he recalled being served two bottles of beer from midnight to the time the trooper escorted him from the premises.

"A State trooper testified that he and another trooper arrived at defendant's tavern between 1:00 and 1:30 a.m. March 29, 1958, to quell a reported disturbance on the premises and 'As we were leaving the tavern we saw him (Robert) standing there. He appeared to me to be a young fellow quite under the influence of alcohol;' that he had 'a bottle of beer in his hand and the remnants of a sandwich in the other hand;' that he didn't see Robert drinking at any time, and that Robert informed him that he was 19 years of age and that he got the beer 'right here.' The other trooper corroborated in most respects the testimony of his partner.

"The ABC agent testified that he questioned the licensee and David (his son), a disqualified person, with respect to David's employment on the licensed premises and obtained from David a signed, sworn statement with respect thereto. The statement was received in evidence. From the statement it appears that the questions propounded by the agent and the answers given by David indicate that David was then presently connected with his father's licensed business. However, on cross-examination, when asked if David didn't say to him that his connection with the licensed business was prior to his disqualification, the agents testified 'There is a possibility that he did say that.'

"William Wilcox (the licensee) testified that on the morning of the specific date alleged he was on the licensed premises; that a barmaid and a bartender were in attendance; that he saw Robert in the premises with a bottle of beer and a sandwich in his hands; that 'He came staggering to the trooper and the trooper just picked him up.' He denied that his son had worked on the licensed premises after he had become disqualified, stating that David drives him around and helps him 'Like a letter, if I got a letter I tear it open and ask him to read it for me. If it needs an answer, whatever it is, I get him to write that for me. That is all.'

"David testified that he never worked on the licensed premises or had any connection with his father's licensed business after he became disqualified and stated that, although the statement signed by him indicates that at the time of signing he was presently connected therewith, 'it is worded that way, but when he (the agent) was talking to me we were talking about the past. That is what I was referring to at the time.'

"The evidence with respect to Charge 1 supports a finding that Robert was in defendant's licensed premises on the specific date alleged and that he had a bottle of beer in his hand. However, there is no corroboration of his testimony that on March 29, 1958, or on any previous occasion, he purchased or consumed alcoholic beverages in defendant's tavern. Admittedly he imbibed alcoholic beverages 'all afternoon' elsewhere and was under the influence of intoxicating liquor when he arrived at defendant's tavern, and it is reasonable to infer that the bottle he carried was purchased elsewhere or was brought from his home.

"As to Charge 2, the evidence is insufficient to establish that David Wilcox, a disqualified person, was on the date alleged connected in any capacity with defendant's licensed business.

"Considering all the facts and circumstances herein, I find that the Division has failed to establish by a fair preponderance of the evidence the guilt of defendant with respect to Charges 1 and 2 and I recommend that those charges be dismissed.

"Defendant has a prior adjudicated record. Effective October 11, 1954, his license was suspended for twenty-five days by the local issuing authority for sale of alcoholic beverages to minors, and effective January 29, 1958, his license was suspended for fifteen days by the same authority for sale of alcoholic beverages during prohibited hours. In view of defendant's previous record of two dissimilar violations which occurred during a five-year period, I recommend that the minimum suspension of fifteen days usually imposed for possessing a bottle of unlabeled liquor (Re Kiken, Bulletin 1187, Item 11) be increased by ten days (Re Csintala, Bulletin 964, Item 4), and that five days be remitted for the plea entered herein (cf. Re Koper, Bulletin 962, Item 8), leaving a net suspension of twenty days."

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

Having carefully considered the record herein, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

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

ORDERED that Plenary Retail Consumption License C-8, issued for the 1958-59 licensing year by the Township Committee of the Township of Deptford to William Wilcox, for premises S/S of Egg Harbor Road Above Mail Avenue, Deptford Township, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. November 5, 1958, and terminating at 2:00 a.m. November 25, 1958.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - PERMITTING FILTHY AND OBSCENE TYPEWRITTEN MATTER ON LICENSED PREMISES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

WILLIAM BOOKACH)
t/a BOOKY'S TAVERN)
641-645 Kenilworth Boulevard)
Kenilworth, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-11, issued by the Mayor and Council of the Borough of Kenilworth.)
-----)

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On August 28, 1958, you sold, at retail a pint bottle of Four Roses Blended Whiskey, an alcoholic beverage, at less than the price thereof listed in the then currently effective Minimum Consumer Resale Price List published by the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30.

"2. On August 28, 1958, you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing an obscene, indecent, filthy, lewd, lascivious and disgusting story, account or report entitled 'Behind the Green Door', on thirteen typewritten pages, depicting and describing male and female persons engaged in acts of sexual intercourse, acts of sexual perversion and other lewd and indecent sexual acts and practices; in violation of Rule 17 of State Regulation No. 20."

The file herein discloses that on Thursday, August 28, 1958, Walter Butler, a bartender on duty at the defendant's licensed premises, sold a pint bottle of Four Roses Blended

Whiskey to an agent of this Division for \$3.00. The minimum consumer resale price then in effect for said alcoholic beverage was \$3.15. After the sale was consummated, the agent and two others who joined him identified themselves to Mr. Butler who admitted aforesaid illegal sale. In the course of their regular investigation of the premises, the agents observed that the obscene typewritten matter mentioned in Charge 2 was found in a cabinet located underneath the bar.

By way of mitigation, the defendant has submitted a statement setting forth therein that he was not present on the premises when the sale of aforesaid alcoholic beverages took place; that the bartender, without the knowledge of its contents, placed the obscene matter in the cabinet and that he (the licensee) was unaware of its presence on the licensed premises until it was found as aforesaid. The licensee, however, cannot escape the consequences of the aforesaid acts of his agent. (Rule 33 of State Regulation No. 20.) Cf. Re Czaplicki, Bulletin 1170, Item 6.

Defendant has no prior adjudicated record. I shall suspend the defendant's license for ten days on Charge 1 (Re Sturcke, Bulletin 1223, Item 8) and for an additional ten days on Charge 2 (Re Union Bar & Grill, A Corp., Bulletin 1156, Item 4). These suspensions are the minimum imposed in similar cases. Five days will be remitted for the plea, leaving a net suspension of fifteen days.

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

ORDERED that Plenary Retail Consumption License C-11, issued by the Mayor and Council of the Borough of Kenilworth to William Bookach, t/a Booky's Tavern, for premises 641-645 Kenilworth Boulevard, Kenilworth, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. November 5, 1958, and terminating at 2:00 a.m. November 20, 1958.

WILLIAM HOWE DAVIS
Director.

6. SEIZURE - FORFEITURE PROCEEDINGS - UNREGISTERED STILL - APPURTENANT EQUIPMENT AND MOTOR VEHICLE ORDERED FORFEITED - PADLOCKING WAIVED.

In the Matter of the Seizure)	Case No. 9700
on April 30, 1958 of a still,)	
appurtenant equipment, a quantity)	
of alcohol, and an International)	ON HEARING
truck, and miscellaneous personal)	CONCLUSIONS AND ORDER
property in or on the premises)	
occupied by Frank Franco, located)	
on Fox Chase Road, Township of)	
Chester, County of Morris, State)	
of New Jersey.)	

-----)
 Edward M. Hogan, Esq., Attorney for Frank Maggiolo.
 I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapters 1 and 2, Revised Statutes of New Jersey, to determine whether a still, appurtenant equipment, a quantity of alcohol, an International truck, and miscellaneous personal property, described in a schedule attached hereto, seized on April 30, 1958 at premises occupied by Frank Franco, located on Fox Chase Road, Chester, New Jersey, constitute unlawful property and should be forfeited, and further to determine whether the premises should be padlocked.

When the matter came on for hearing pursuant to R. S. 33:1-66 and R. S. 33:2-4, an appearance was entered on behalf of Frank Maggiolo, who opposed padlocking of the premises. No one appeared to oppose forfeiture of the seized property.

Reports of ABC agents and other documents in the file, presented in evidence with consent of counsel for Frank Maggiolo, disclose the following facts:

On April 30, 1958 ABC agents and local police officers executed a search warrant at the premises in question, on which there were various dwellings, two barns, a garage, and a shed. Frank Franco occupied one of the dwellings. One barn was about 250 feet in the rear of Franco's residence. The garage and the shed were near this barn.

The agents found a large still in operation in the barn near Franco's dwelling, also a quantity of alcohol and a large quantity of mash. The International truck was parked in the garage. The agents seized the still, alcohol, mash, truck and other miscellaneous items. Frank Franco was arrested.

A sample of the alcohol was analyzed by the Division Chemist who reports that it is alcohol and water fit for beverage purposes with an alcoholic content by volume of 88.7 percent.

The still was not registered with the Director of the Division of Alcoholic Beverage Control as required by R. S. 33:22-1. The alcohol is illicit because it was manufactured illegally and without payment of tax on alcoholic beverages.

Such illicit still, alcohol, the International truck, and all other personal property seized on the premises constitute unlawful property and are subject to forfeiture and the premises are subject to padlocking. R. S. 33:1-1 (i and y), R.S. 33:1-2, R.S. 33:1-66, R.S. 33:2-2, 5.

The following appears from the testimony of Frank Maggiolo: He operates a junk business consisting mostly of old cars. He has considerable financial means and is the owner of the farm in question, which he estimates is worth in the neighborhood of \$150,000.00. He also is the owner of another farm in Flemington. His manager operated the Chester farm in an unsuccessful dairy business which was discontinued in the Fall of 1957. Having difficulty in collecting rents of the dwellings there, he advertised the farm for rent. He met Franco, reputed to be in the used car business, who desired to rent the farm. Maggiolo's lawyer drafted a one-year lease from February 1, 1958 to Franco for the entire premises for the stated purpose of breeding horses. Maggiolo's business activities prevented him from visiting the farm and his lawyer apparently collected the rent from Franco. After the seizure, Maggiolo instituted legal proceedings which resulted in his regaining possession of the farm. Under these circumstances padlocking will be waived.

Accordingly, it is DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" attached hereto, constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66 and R.S. 33:2-5, and shall be sold at public sale for the use of the state in accordance with State Regulation No. 29 or 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: October 28, 1958.

SCHEDULE "A"

- 1 - cast iron cooker
- 2 - coolers and coils
- 1 - copper dephlegmator
- 1 - copper column
- 1 - steam boiler
- 1 - receiving tank
- 5 - wooden vats with mash
- 2 - General Electric Water Pumps
- 111 - 5-gallon empty cans
- 20 - 5-gallon cans of alcohol
- Miscellaneous personal property
- 1 - International truck, Serial #39312,
Engine #00B2298782, N. J. Registration
XOT-653.

7. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against JOHN F. BOWNE t/a THE BOTTLE SHOP 1400 Third Avenue Spring Lake, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-3, issued by the Borough Council of the Borough of Spring Lake.

Alexander A. Abramson, Esq., Attorney for Defendant-licensee. Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold alcoholic beverages at less than the price listed in the minimum consumer resale price list then in effect, in violation of Rule 5 of State Regulation No. 30.

The file herein discloses that on September 5, 1958, Joseph Miller, a clerk of defendant-licensee, sold six 12-ounce cans of Rolling Rock Premium Beer to an agent of this Division for \$1.10. The minimum consumer resale price then in effect for said six cans of beer was \$1.14. After the sale was consummated, the agent and another who joined him identified themselves to Mr. Miller and to the licensee when he arrived at the premises. Both admitted that they had been selling six-can packs of this brand of beer for \$1.10, under the alleged mistaken notion that such was the correct price.

Defendant has a prior adjudicated record. Effective January 20, 1958, his license was suspended for ten days by the Director for delivery of alcoholic beverages without a bona fide invoice and the authorized transportation thereof. Bulletin 1210, Item 7. The minimum penalty for the violation charged herein is a suspension of the license for ten days. Since the dissimilar violation occurred within a five-year period, I shall suspend defendant's license for fifteen days. Re Kraus, Bulletin 1240, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

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

ORDERED that Plenary Retail Distribution License D-3, issued by the Borough Council of the Borough of Spring Lake to John F. Bowne, t/a The Bottle Shop, for premises 1400 Third Avenue, Spring Lake, be and the same is hereby suspended for ten (10) days, commencing at 9:00 a.m. November 3, 1958, and terminating at 9:00 a.m. November 13, 1958.

WILLIAM HOWE DAVIS Director.

8. DISCIPLINARY PROCEEDINGS - VIOLATION OF STATE REGULATION NO. 38 - KEEPING PREMISES OPEN AND PERMITTING PERSONS OTHER THAN EMPLOYEES AND AGENTS ON PREMISES DURING PROHIBITED HOURS - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ARNOLD J. BOCK)
t/a BOCK'S TAVERN)
482 West Side Avenue)
Jersey City, N. J.,)

CONCLUSIONS AND ORDER.

Holder of Plenary Retail Consumption License C-113, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

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Arnold J. Bock, Defendant-licensee, Pro se.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to the following charges:

"1. On Sunday, September 21, 1958 at about 2:10 a.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., one pint bottle of whiskey labeled 'Four Roses Blended Whiskey', at retail, in its original container for consumption off your licensed premises, and allowed, permitted and suffered the removal of such alcoholic beverage from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

"2. On Sunday, September 21, 1958, between the hour of 2:00 a.m. and 2:15 a.m., you conducted your licensed business; in violation of Section 4 of Ordinance No. K-1299 regulating the sale and distribution of alcoholic beverages by all those holding plenary retail consumption licenses in the City of Jersey City adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950, which prohibits any such activity between the hours of 2:00 a.m. and 1:00 p.m. on Sundays.

"3. On the occasion aforesaid, you suffered and permitted persons except yourself and your actual employees and agents in and upon the licensed premises; in violation of the above mentioned ordinance."

The file herein discloses that on Sunday, September 21, 1958, at about 1:05 a.m., an ABC agent entered defendant's licensed premises. Robert A. Bock (the licensee's brother) was tending bar. At about 1:58 a.m. the bartender began to extinguish the exterior and interior lights but continued to serve alcoholic beverages to three male patrons. At about 2:05 a.m. two of these men left the premises. At about 2:10 a.m. the agent purchased from the bartender a pint of "Four Roses" whiskey which the bartender placed in a paper bag. The agent then left the premises, at which time Robert Bock and a patron and another employee of the licensee remained in the premises. The agent joined another agent who was stationed outside and both entered the premises. Robert Bock verbally admitted the prohibited sale of the bottle of whiskey to the agent.

The local ordinance prohibits the conduct of the licensed business on the premises between the hours of 2:00 a.m. and 1:00 p.m. on Sundays, and further provides that a licensee shall not suffer or permit any person whatsoever, except the licensee and his actual employees, upon the licensed premises during prohibited hours. State Regulation No. 38 prohibits the sale on Sunday of alcoholic beverages in original containers for off-premises consumption.

Defendant has no prior adjudicated record. The only definitive evidence of sale of alcoholic beverages after 2:00 a.m. is the purchase of the pint of whiskey by the agent. Under these circumstances, I shall suspend defendant's license for twenty-five days. Re Regal and Fanning, Bulletin 1190, Item 5. 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 October, 1958,

ORDERED that Plenary Retail Consumption License C-113, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Arnold J. Bock, t/a Bock's Tavern, for premises 482 West Side Avenue, Jersey City, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. November 5, 1958, and terminating at 2:00 a.m. November 25, 1958.

WILLIAM HOWE DAVIS
Director.

9. STATE LICENSES - NEW APPLICATIONS FILED.

Scarborough Distributors Inc.

114 Girard Avenue, Trenton, N.J.

Application filed December 12, 1958 for place-to-place transfer of State Beverage Distributor's License SBD-221 to include additional space.

Leslie E. Wilson, t/a J. Bencsetz Distributing Co.

708 Central Avenue, Alpha, N. J.

Application filed December 12, 1958 for person-to-person transfer of State Beverage Distributor's License SBD-40 from Joseph Bencsetz, t/a J. Bencsetz Distributing.

S & M Distributing Company

401 North Massachusetts Avenue, Atlantic City, N. J.

Application filed December 12, 1958 for State Beverage Distributor's License.



William Howe Davis
Director.