

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

BULLETIN 1184

September 12, 1957

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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 1184

September 12, 1957

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY
(SOLICITATION FOR PROSTITUTION) - NUISANCE - PRIOR RECORD -
LICENSE SUSPENDED FOR 200 DAYS.

In the Matter of Disciplinary)
Proceedings against)

ALBERT BADER)
T/a BADER'S BAR)
2 Main Street)
Paterson, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-115, issued by the)
Board of Alcoholic Beverage Control)
for the City of Paterson.)

Duffy & Ruggiero, Esqs., by Vincent C. Duffy, 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:

"Defendant pleaded not guilty to the following charges:

'1. On August 16, 22 and 23, 1956, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., solicitation for prostitution and the making of arrangements for illicit sexual intercourse in violation of Rule 5 of State Regulation No. 20.

'2. On August 8, 16, 22 and 23, 1956, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you made offers to procure and procured females for male patrons for the purpose of illicit sexual intercourse; allowed, permitted and suffered unescorted females frequenting your premises to make overtures to male patrons for illicit sexual intercourse and to solicit male patrons to purchase numerous drinks of alcoholic beverages for consumption by them; allowed, permitted and suffered persons who appeared to be homosexuals in and upon your licensed premises; allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises; and otherwise conducted your place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.'

"At the hearing herein the Division called as its witnesses four of six ABC agents who participated in the investigation of defendant's licensed premises. They will be referred to as Agents N, T, J and C.

"Agent N testified that he visited defendant's licensed premises on August 2, 10, 16, 22 and 23, 1956; that on August 16, at about 10:15 p.m., he and Agent T entered the premises and seated themselves at different sections of the bar; that he

observed Albert Bader (the licensee herein) and a bartender serve alcoholic beverages to unescorted females and various male patrons and accept payment therefor from the male patrons; that at about 11:00 p.m. he overheard a female, seated along-side of him, dickering with a male over the price she demanded for illicit sexual relations; that later he asked the female what she would charge for an afternoon tryst with him and she replied 'seven;' that, when the female absented herself temporarily, he asked Bader if any of the girls present would 'lay' and was told they all would; and that, when the female returned, he bought her a drink and left the premises. He testified further that, at about 10:00 p.m. August 22, he and Agent J entered defendant's licensed premises and took seats together at the bar; that he asked Bader if there were any girls on the premises that he could 'make' and that Bader answered that there were none; that at about 11:10 p.m. Bader introduced him to a girl called Thelma, saying 'This is a friend of mine who would like to buy you a couple of drinks;' that he bought drinks for Thelma who made arrangements to have illicit sexual relations with him; that he and Thelma left the premises after informing Bader that he got her 'cheap;' and that Bader said, 'It's good someone can because I have to work;' that he and Thelma entered his car in which he gave her \$10.00 in marked money; that he drove a short distance and was stopped by Agents C and R and a city detective to whom Thelma stated, after they identified themselves, that she was taking him (Agent N) to her house; and that the marked money was recovered. He also testified that he, the other agents and the detective returned to the licensed premises and identified themselves to Bader; that earlier he had observed on the licensed premises two apparent lesbians and two apparent homosexuals; and that one of the lesbians and another female executed a dance known as the 'fish', 'grind' or 'slow-drag.'

"On cross-examination Agent N admitted that on August 22 neither Bader nor the bartender participated in the conversation between Thelma and the male patron or between Thelma and him; that nothing improper was observed by him when he visited the licensed premises on August 2 and 10; and that no arrangements for illicit sexual relations were made on August 2, 10 and 16.

"Agent T testified that he and Agent J visited defendant's licensed premises at approximately 10:15 p.m. August 8, and that he observed a couple executing the 'fish' and a girl consuming drinks which were paid for by an elderly man. He testified further that he and Agent N visited defendant's premises on August 16 wherein he saw Agent N talking to a female but did not hear their conversation.

"Agent J testified that he observed patrons executing the 'fish' on August 8; that, when he visited defendant's premises with Agent N on August 22, he observed two girls executing a similar dance; that one of the girls softly patted and caressed the cheeks of a female patrons with whom he (the agent) was talking and then made an indecent remark indicating the futility of her affectionate advances. Agent J's testimony tended to corroborate that of Agent N respecting the circumstances surrounding Bader's introduction of Thelma, the alleged assignation and Bader's acquiescence with respect thereto.

"Agent C's testimony corroborated that of Agent N as to the circumstances surrounding Thelma's apprehension and the recovery of the marked money. His testimony further shows that, when he, the other agents and the detectives returned to the

licensed premises and identified themselves to Bader, a female patron became abusive and repeatedly uttered a foul and obscene word. On cross-examination Agent C admitted that Bader, the agents and the detective tried to quell the female but that she persisted and was eventually arrested.

"It was stipulated that, if Agents R and D (who participated in the investigation) were called, their testimony would corroborate that of Agent C.

"The defendant Bader denied all of the allegations charged herein, admitting, however, that he introduced Thelma to Agent N because the agent stated that he wanted to buy her a drink.

"A businessman testified that he had known Bader for over eight years and that Bader's reputation as a law-abiding citizen is good.

"I have carefully considered the testimony adduced herein and, in evaluating it, will give credence to the admission by Agent N on cross-examination that nothing improper was observed on the licensed premises on August 2 and 10; that no arrangements for illicit sexual relations were made on August 2, 10 and 16, and that on August 22 neither Bader nor his bartender participated in the conversation between Thelma and the agent. With respect to the alleged arrangements made by the agent with Thelma on August 22, there is convincing evidence that Bader had knowledge of the purpose for which the agent sought a female. The agent's testimony that Bader, when asked how much the girls charged to engage in illicit sexual relations, replied 'he didn't know, and another thing he made a gesture he doesn't want to know anything.' Despite his apparent righteousness, Bader shortly thereafter came from behind the bar, conversed with Thelma, escorted her to where the agents were seated and introduced her to Agent N with the alleged casual statement that the agent wanted to buy her a drink. Bader's explanation of the purpose of the introduction is incredible. I find that defendant on August 22 allowed, permitted and suffered in and upon his licensed premises the making of arrangements for illicit sexual intercourse.

"As to the allegations set forth in Charge 2, I find that the Division has established that the licensee herein permitted, allowed and suffered an indecent dance in and upon his licensed premises on August 8 and 22, and that on August 8, 16 and 22 he permitted unescorted females in his premises to accept and consume alcoholic beverages at the expense of male patrons. I find, further, that the evidence is insufficient to support a finding of guilt as to the presence of Lesbians and homosexuals on the licensed premises and that, while it appears that a female patron repeatedly uttered an obscene word, it also appears that Bader and the law-enforcement officers, to whom she apparently directed the vulgarity, did everything possible to quell her. I find defendant guilty of Charge 2 to the extent indicated herein.

"Defendant has a prior adjudicated record. Effective June 27, 1955, his license was suspended for 180 days by the Director on 'fairy' and nuisance charges (Re Bader, Bulletin 1073, Item 4).

"It has long been held that solicitation for immoral purposes and the making of arrangements for illicit sexual

intercourse cannot and will not be tolerated upon licensed premises. The public is entitled to protection from these sordid and dangerous evils. Re 17 Club, Inc., Bulletin 949, Item 2; In re 17 Club, Inc., 26 N. J. Super. 43 (App. Div. 1953). Considering all the facts and circumstances of the instant case, together with defendant's prior adjudicated record which occurred within a five-year period, I conclude that the only appropriate penalty is revocation of defendant's license, which I recommend. Cf. Re Kaczka, Bulletin 1126, Item 3, and cases cited therein."

Written exceptions were taken to the Hearer's Report pursuant to Rule 6 of State Regulation No. 16 and counsel appeared before me on oral argument.

Having carefully considered the testimony herein, together with the Hearer's Report, the exceptions taken thereto and the oral argument of counsel, I concur in and adopt the Hearer's finding in every respect excepting that wherein he infers from the testimony that Bader's introduction of Thelma to the agent was for the purpose of promoting illicit sexual relations between the two.

Although the evidence supports a finding of defendant's guilt that arrangements for illicit sexual relations were actually made between Thelma and the agent on the licensed premises, there is no concrete evidence that Bader procured the female for that purpose or participated in the conversations with respect thereto. Rather, the testimony is convincing that Bader merely complied with the agent's request to bring Thelma over to him so that he could buy her a drink and that he informed Thelma of the purpose of the introduction. If it could be reasonably inferred from the testimony that Bader participated in the illicit arrangements, outright revocation of his license, as recommended by the Hearer, might well be warranted (Re Merjack, Bulletin 998, Item 1, and cases cited therein). However, my independent finding in that respect being to the contrary, I disapprove the Hearer's recommendation as to the penalty to be imposed herein.

In view of the aforesaid, it is deemed unnecessary to pass upon the question of entrapment raised by defendant's counsel.

Considering all the facts and circumstances herein, together with defendant's prior adjudicated record, I shall suspend his license for a period of two hundred days. While these proceedings were pending, defendant obtained a renewal of his license for the 1957-58 licensing year.

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

ORDERED that Plenary Retail Consumption License C-115 (for the 1957-58 licensing year), issued by the Board of Alcoholic Beverage Control for the City of Paterson to Albert Bader, t/a Bader's Bar, for premises 2 Main Street, Paterson, be and the same is hereby suspended for two hundred (200) days, commencing at 3:00 a.m. July 25, 1957, and terminating at 3:00 a.m. February 10, 1958.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against)

HYMAN ISAACSON & ALFRED MARRANO)
4901 Broadway)
Union City, N. J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-169 (for the 1956-57 and 1957-58 licensing years), issued by the Board of Commissioners of the City of Union City.)

Meehan Brothers, Esqs., by John J. Meehan, Esq., Attorneys for Defendant-licensees.

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

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

"1. On May 18, 21 and 22, 1957, you engaged in and 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 May 22, 1957, you possessed, had custody of and allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game' in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

The file herein discloses that on the dates enumerated in the above charges ABC agents visited defendants' licensed premises. On their first visit the agents observed Alfred Marrano, one of the licensees herein, accept what appeared to be horse race slips from several patrons, then proceed to a telephone booth with the slips, make a call and return to the bar where patrons were consulting a scratch sheet. Shortly thereafter a patron answered the telephone and called to Marrano "take care of that bet". On their second trip the agents made two separate horse race bets with Edwin J. Banta, the bartender. Banta placed the money received from the agents, together with their slips indicating their selections, in a cardboard container behind a television set located in the rear of the premises. The bartender also was observed answering two telephone calls following which he prepared slips and deposited them in the aforesaid cardboard box.

On their last visit the agents entered the premises with "marked" money in their possession. Present at the time were the licensees, Banta, Bert C. Raschke (a night bartender), and another male. After a short conversation with Banta, who was on duty behind the bar, one of the agents was given a small white pad on which he wrote his choice of horses for two races and returned the slips, together with two "marked" bills, to Banta. Banta delivered the slips and the money to Marrano at the far end of the bar. About 30 minutes later another of the agents made a horse race bet with Banta who again delivered the slip and "marked" money to Marrano. Shortly thereafter Banta accepted a third horse race bet from an agent and after putting the slip, together with the "marked" money, in his pocket, other ABC agents and local police, by prearrangement, entered the premises.

A search of the premises produced eight daily "numbers" bet slips in a cigar box behind the television set, and two white pads, as aforementioned, on the ledge of the bar. In Isaacson's personal possession were found 50 baseball pool tickets and a betting slip on a baseball game. Marrano held numerous baseball pool tickets, daily number slips, a scratch sheet and horse race slips, including those prepared by two of the agents, together with some of the aforementioned "marked" money.

In Banta's possession were found the betting slip and four \$1.00 "marked" bills given to him by the agent immediately prior to the raid. In Raschke's possession were found six \$1.00 "marked" bills, a ticket for a baseball pool and a slip of white paper on which appeared data of horse race bets.

In sworn written statements dated May 22, 1957, Marrano and Banta admitted their participation in the aforesaid unlawful activities. Isaacson admitted possession of the aforesaid 50 baseball pool tickets and that he intended to sell them for 75¢ apiece, and Raschke stated he received the "marked" money found in his possession from Marrano as change when he made a horse race bet with him.

Defendants have no prior adjudicated record. Under the circumstances appearing in this case, I shall suspend defendants' license for forty days (Re Yurcho, Bulletin 1170, Item 4). Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

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

ORDERED that Plenary Retail Consumption License C-169 for the 1957-58 licensing period, issued by the Board of Commissioners of the City of Union City to Hyman Isaacson & Alfred Marrano, 4901 Broadway, Union City, be and the same is hereby suspended for a period of thirty-five (35) days, commencing at 3:00 a.m. July 22, 1957 and terminating at 3:00 a.m. August 26, 1957.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - CHARGES ALLEGING SALE TO MINORS AND SALE DURING PROHIBITED HOURS DISMISSED.

In the Matter of Disciplinary Proceedings against)
 PETER J. HECK, SR. & PETER J. HECK, JR.)
 T/a HAMMONTON HOTEL)
 19-21 South Egg Harbor Road) CONCLUSIONS
 Hammonton, N. J.,) AND ORDER
 Holders of Plenary Retail Consumption License C-1, issued by the Town Council of the Town of Hammonton.)
 -----)
 McAllister & Hunter, Esqs., by Robert McAllister, Esq., Attorneys for Defendant-licensees.
 Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendants pleaded not guilty to charges alleging that (1) they sold, served and delivered an alcoholic beverage

to a minor, in violation of Rule 1 of State Regulation No. 20 and (2) they sold and delivered during prohibited hours an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

"At the hearing herein, the Division called as its witnesses Alfred ---, Dominic ---, Michael --- and an ABC agent. Alfred testified in substance that he was 17 years of age on the date alleged; that he and two minor companions arrived in the vicinity of defendants' licensed premises at about 11:15 p.m. Sunday, May 12, 1957; that he alone entered the premises wherein a Puerto Rican and Peter Heck, Jr. (one of the licensees herein) were tending bar; that he ordered two quarts of beer from Heck who put the merchandise in a paper bag and placed it on the bar; that he then asked Heck if he had any whiskey he could sell him for \$1.00 and when Heck replied in the affirmative, he left the premises, consulted with his companions, returned and told Heck he would take the whiskey instead of the beer; that Heck went 'in the corner' got a half-pint of whiskey, gave it to him and accepted \$1.00 in payment; that he put the whiskey in his back pocket and went outside and that no one on the premises asked him to produce any written proof of age.

"On cross-examination Alfred testified that he and his companions had spent an hour or so in a luncheonette connected with a barroom in the Central Cafe where they drank birch beer and one of them had a sandwich; that Heck got the whiskey 'I think it was down the cellar'; that two of them drank the whiskey, 'I had a little bit of it and Mike finished it all'; that 'we threw the bottle away' on a lawn; and that four days later 'we went back (for the bottle) and the lady said she put it in the trash', where it was found. Alfred further testified that alcoholic beverages were served in the luncheonette of the Central Cafe 'just to people over 21'.

"Dominic and Michael corroborated Alfred's testimony as to his entering the licensed premises, his emergence therefrom with the pint of whiskey, the discarding of the bottle on the lawn and the finding of it in a trash can four days later. On cross-examination Dominic testified 'I think Al threw it on the lawn of Mrs. Johnson's place', and Michael, in answer to my query, stated that he didn't see where the bottle was thrown.

"The ABC agent testified that on May 15, 1957 the three minors directed him and two local police officers to defendants' licensed premises and two of the minors pointed it out as the place where Alfred had entered and emerged with a pint of whiskey, and Alfred identified Heck as the person who made the sale. The agent further testified that Heck, after hearing Alfred relate what occurred in and upon the licensed premises, said 'We were not open at that time, you couldn't have bought it here'.

"In defense of the charge, Heck testified that he closed the barroom and left the premises at 10:30 p.m. on the date alleged, and arrived at the Columbia Bar at 10:45 p.m. wherein he had a few drinks, bought sandwiches for his wife and daughter and departed for home at 11:10 p.m. He testified further that it was unlikely that he would substitute a half pint of whiskey for two quart bottles of beer when his profit on the sale of the whiskey would be 21¢ less than that on the sale of two quarts of beer. He admitted, however, that he carried in stock the brand of whiskey alleged to have been sold to Alfred.

"The proprietor and a former bartender of the Columbia Bar corroborated Heck's testimony respecting his presence therein, the time of his arrival and departure and his purchase of sandwiches.

"The evidence further discloses that Michael (age 15) became intoxicated and was left sitting alone on the steps of a store where a police officer found him and escorted him home; that the following day the three youths appeared at police headquarters where they related to Officer Cuci (same name as the 15-year-old youth) what transpired on the previous evening, including the discarding of the bottle on the lawn of Mrs. Johnson's property.

"Considering that there is no corroboration of the actual sale to Alfred, that the minors had remained about an hour on other licensed premises, the time intervening between the interview of the minors by the police and their confrontation of Heck four days later after an empty bottle was found in a trash can, the precociousness of the 15-year-old youth who supplied the money for and consumed most of the whiskey and the admitted fact that he had previously been intoxicated, the discrepancies in Alfred's testimony as to where Heck got the pint of whiskey, the fact that Alfred's testimony does not disclose on whose lawn the empty bottle was thrown, that Michael didn't see it thrown on Mrs. Johnson's lawn and that Dominic was informed by Alfred that it was thrown on Mrs. Johnson's lawn, and considering Heck's testimony which was corroborated by that of two reputable witnesses, and the fact that Heck's defense bears out that which he stated to the agent when he was first confronted by the minors, create in my mind a serious doubt that the whiskey was purchased in defendants' licensed premises. Such doubt should, in all fairness, be resolved in favor of defendants. I therefore recommend that the charges herein be dismissed."

After the Hearer submitted his report, the Division's attorney filed written exceptions and argument thereto and defendants' attorneys filed answering argument, pursuant to Rule 6 of State Regulation No. 16.

I have carefully examined and considered the arguments of the attorneys herein and have decided to adopt as my own the findings and recommended conclusions of the Hearer. I shall enter an order dismissing the charges.

Accordingly, it is, on this 11th day of July, 1957,

ORDERED that the charges herein be and the same are hereby dismissed.

WILLIAM HOWE DAVIS
Director.

4. STATE BEVERAGE DISTRIBUTOR'S LICENSE - OBJECTIONS TO TRANSFER HELD TO BE MERITORIOUS - APPLICATION FOR TRANSFER DENIED.

In the Matter of Objections to)
the Transfer of State Beverage)
Distributor's License No. SBD-154)
from)

JAMES E. CAMBRIA & PASQUALE A. ALBANESE)
T/a HEDRICK DISTRIBUTING COMPANY)
11 Gypsum Street)
Kearny, N. J.,)

CONCLUSIONS

to)

MICHAEL HONCHAR)
T/a ELLIOTT HOME BEVERAGES)
326 Talmadge Avenue)
Bound Brook, N. J.)

Leo J. Berg, Esq., Attorney for Applicant.
Samuel Moskowitz, Esq., Attorney for North Central Counties
Retail Liquor Stores Association, and New Jersey Retail
Liquor Stores Association, Objectors.

BY THE DIRECTOR:

Written objections to the transfer having been filed by various objectors, a hearing was duly held thereon.

After said hearing the Hearer's Report, dated March 27, 1957, recommending that the application be denied, was duly filed and no exceptions were taken to said Report. I agree with the recommendation of the Hearer that, upon the record developed at the hearing, the application should be denied. However, I deem it advisable to modify the recommended conclusions in certain particulars hereinafter set forth.

The objections filed were that the area is amply served by existing licensees and that there is no public need or necessity for an additional SBD license in that area.

At the hearing Michael Honchar, the applicant, testified that during the past three years he has conducted a carbonated beverage business at the above address and that he has about two hundred customers, many of whom have requested him to deliver alcoholic beverages. In support of his testimony he presented a petition containing the names of about one hundred seventy people requesting the Director to grant the transfer of the license. The applicant admitted that he was working as a bartender for his mother (Stella Honchar) who then held a retail consumption license at 208 West Main Street, Bound Brook, and that he expected to receive from her a substantial sum of money which he planned to invest in the business. However, he testified that he would no longer act as bartender if the transfer is granted; that the money to be received from his mother would be a gift and that she will have no interest in the State Beverage Distributor's license. He also admitted that his mother owns the premises, known as 326 Talmadge Avenue, Bound Brook, to which he seeks a transfer of the license.

John Warner, who holds a plenary retail consumption license in Bound Brook, testified that there are one hundred

eighty-six consumption licenses in Somerset County, twenty-one of which have been issued for premises in Bound Brook. Michael Pinto testified that he and a partner hold a plenary retail distribution license in Bound Brook and that they deliver within a five-mile radius of their premises. Each testified that, in his opinion, there was no need for an additional SBD license in the area.

Mayor Donald Conroy testified that at a public meeting held on January 21, 1957, the members of the Borough Council authorized him to represent the Borough at the hearing. He presented a certified copy of excerpts of minutes of meeting held on December 17, 1956, stating that the Borough Council was opposed to the transfer "for the reason that there was no need for such a license." The Mayor testified that twenty-one plenary retail consumption and two plenary retail distribution licenses have been issued in the Borough which has a population of about 9,000.

The objections of the retail licensees are not entitled to any great weight as they are obviously registered for the sole purpose of preventing any further competition which might affect their own economic positions. Also, the resolution of the Borough Council and the testimony of Mayor Conroy seem to be predicated on the premise that to grant the transfer in question would result in adding another liquor outlet in the Borough of Bound Brook which presently seems to have a sufficient number of retail stores (both C and D licenses) to serve a population of 9,000. The Council, however, does not distinguish the State Beverage Distributor type of license from the tavern and package store license in that the State Beverage Distributor license is State-wide in scope and caters primarily to home delivery in quantities of not less than 144 fluid ounces (1/2 case) of unchilled beer. This type of operation offers little competition to the retail consumption and retail distribution licensee. See Re Walkiewicz, Bulletin 1172, Item 5.

However, I am approving the Hearer's Report because applicant's mother, who then held a retail license, is the owner of the premises to which transfer is sought. It has been held that ownership by the holder of a State Beverage Distributor's license of premises licensed for the sale of alcoholic beverages at retail constitutes a violation of R. S. 33:1-43. Re Milask, Bulletin 392, Item 14. Conversely, the ownership by a retail licensee of premises occupied by the holder of a State Beverage Distributor's license would violate the spirit of R. S. 33:1-43 which forbids a wholesaler from being directly or indirectly interested in a retail license, and vice versa. Re Glickenhau, Bulletin 204, Item 1.

The attorney for the applicant has recently advised me that applicant's mother has sold the business for which she then held a retail license and that she has divested herself completely of any interest whatsoever in said business. However, as the license sought to be transferred by the applicant has expired and the transferor has applied for renewal of said license, there is no necessity for considering further at this time the question of the pending application for transfer to the applicant. I shall approve the Hearer's Report without prejudice to the filing of a new application.

For the reasons aforesaid, the pending application for transfer will be denied.

WILLIAM HOWE DAVIS
Director.

Dated: July 8, 1957.

5. DISCIPLINARY PROCEEDINGS - SALE AT OTHER THAN LICENSED PREMISES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

AUGUSTINE DESIMONE)
201 Bruce St. & 46 - 14th Ave.)
Newark, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-373 (for the 1956-57 and 1957-58 licensing years), issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)
-----)

Stanley Blasi, 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 charge:

"On divers days between May 10, 1955 and May 10, 1957, you sold alcoholic beverages 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 accepted orders for and sold numerous bottles of various kinds of alcoholic beverages at a place other than your licensed premises, viz., in and about premises of the Federal Telephone and Radio Co., 100 Kingsland Road, Clifton, N. J.; in violation of R. S. 33:1-2."

The file herein discloses that for a period of about two years (May 10, 1955 to May 10, 1957) the licensee was employed at the Federal Telephone and Radio Co. at Clifton, N. J. where he took orders from and delivered to co-employees alcoholic beverages taken from his licensed premises located at 201 Bruce St. & 46 - 14th Ave., Newark, N. J.

Defendant has no prior adjudicated record. I shall suspend his license for ten days (Re Parker Wines & Liquors, A Corp., Bulletin 1172, Item 4). Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 10th day of July, 1957,

ORDERED that Plenary Retail Consumption License C-373, for the 1957-58 licensing year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Augustine Desimone, 201 Bruce St. & 46 - 14th Ave., Newark, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. July 15, 1957 and terminating at 2:00 a.m. July 20, 1957.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE
SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JOHN ZAHARICK)
T/a MELODY LOUNGE)
19 South Street)
Manville, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-5 for the 1956-57)
and 1957-58 licensing years, issued)
by the Borough Council of the)
Borough of Manville.)

Robert W. Wolfe, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On the night of March 28 and during the early morning hours of March 29, 1957 you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., John G. ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

Acting on information received from the Office of the Prosecutor of the Pleas of Somerset County, ABC agents obtained two sworn written statements, one from John G. --- (age 20), dated April 23, 1957, and the other from George J. Petruce, an adult, dated April 30, 1957. From these statements it appears that the aforesaid affiants and two others were on defendant's licensed premises from about 11:30 p.m. on March 28, 1957 to about 1:30 the next morning; that during this period of time John Zaharick, the licensee, served five glasses of beer at 15 cents per glass to John G. --- and to each of his three companions; and that at no time did the licensee question John G. --- about his age. Shortly after executing their aforementioned statements, John G. --- and Mr. Petruce directed the ABC agents to the licensed premises in question and identified the same as the place where they were served the alcoholic beverages aforesaid.

Defendant has no prior adjudicated record. I shall suspend his license for a period of ten days, the minimum suspension for the sale of alcoholic beverages to a 20-year-old minor (Re Habbart, Bulletin 1130, Item 9). Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

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

ORDERED that Plenary Retail Consumption License C-5, issued for the 1957-58 licensing year by the Borough Council

of the Borough of Manville to John Zaharick, t/a Melody Lounge, 19 South Street, Manville, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. July 22, 1957, and terminating at 2:00 a.m. July 27, 1957.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING LICENSEE PERMITTED PIN BALL MACHINES ON LICENSED PREMISES DISMISSED.

In the Matter of Disciplinary Proceedings against)

LOUIS KELMAN)
T/a THE FAIRMONT)
319 Fifth Street)
Lakewood, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-25, issued by the Township Committee of the Township of Lakewood.)

Morton C. Steinberg, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to a charge alleging that on December 26, 1956, he permitted and suffered three bagatelle or pin ball machines in and upon his licensed premises, in violation of Rule 7 of State Regulation No. 20.

"The record herein discloses that the application filed by defendant for renewal of his license for the 1956-57 licensing period set forth that the 'entire premises except card rooms' constituted the licensed premises. It appears that on December 26, 1956, an ABC agent, while in the course of a routine inspection of defendant's premises, observed three pin ball machines in a small room which also contained a soda dispensing machine, a cigar and cigarette counter, an ornament showcase, a candy counter and a scale. In the presence of Max Sacks, manager of the establishment in question, the agent played the machines and all were found to be in good working order.

"The question to be decided herein is whether the room in which the pin ball machines were located is part of the defendant's licensed premises. The only evidence on the part of the Division was that the room containing the pin ball machines, when visited by the ABC agent, did not possess any of the characteristics of a card room. This in itself is sufficient to establish a prima facie case that a violation had been committed.

"The defendant produced as witnesses the local Chief of Police and also the Municipal Clerk who testified that on occasion they had visited the defendant's premises and, in

their opinion, the room in question was considered a card room. Sacks testified that there were alterations made to the premises whereby the bar was moved to another part of the premises and the room in which it was formerly located was converted into a card room; that because of this the room where the pin ball machine was found was rented by defendant prior to December 26, 1956 to one Mimi Ross and that she 'sells cigars, cigarettes, candies, novelties, little jewelry' therefrom.

"I have carefully weighed all of the evidence adduced herein and recommend that any doubt concerning the room in question as not being part of the licensed premises be resolved in favor of the defendant. I further recommend that the application for renewal of the defendant's license should specify with accuracy that portion of the building to be used as the licensed premises in order to avoid any ambiguity in the future.

"I further recommend that under the circumstances appearing herein, the charge preferred in the instant case be dismissed."

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

After careful examination of the record in the instant case, I agree with and adopt the recommended conclusions of the Hearer that the charge herein be dismissed.

Accordingly, it is, on this 11th day of July, 1957,

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

WILLIAM HOWE DAVIS
Director.

8. CANCELLATION PROCEEDINGS - CHARGE ALLEGING THAT LICENSE HAD BEEN IMPROVIDENTLY ISSUED IN VIOLATION OF R.S. 33:1-12(3)b SUSTAINED - LICENSE CANCELLED.

In the Matter of Cancellation)
Proceedings against)
ABRAHAM POLSKY)
603 Harrison Avenue)
Harrison, N. J.,)
Holder of Limited Retail Distri-)
bution License DL-1, issued by the)
Town Council of the Town of Harrison.)

CONCLUSIONS
AND ORDER

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

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The licensee herein was ordered to show cause why his limited retail distribution license for the current licensing year should not be suspended, revoked or cancelled and declared null and void for the reason that said license was improvidently issued, in violation of R. S. 33:1-12(3)b (as amended by P. L. 1951, ch. 163).

"A similar license for the 1951-1952 licensing period for the same premises issued to defendant-licensee was cancelled and declared null and void on April 7, 1952 because it was improvidently issued in violation of the above statute. Re Polsky, Bulletin 932, Item 11.

"Issuance of a license of this type is limited by statute to establishments whose primary and principal bona fide business is groceries and other foodstuffs, and not to a confectionery store. Since licensee's business was of the latter character, the license was cancelled as aforesaid.

"Immediately following such cancellation, the licensee obtained a small stock of groceries, applied to the municipal issuing authority for a new license of this type, which was granted, and obtained renewals thereof until the present date.

"The matter came to the attention of this Division when an ABC agent recently observed signs advertising the sale of beer in the display windows of defendant's store, which to all outward appearances was a confectionery store. On December 5, 1956, an agent was assigned to ascertain the exact nature of the business activities carried on at the premises.

"According to the testimony of the agent, there were then no groceries on display in the show windows, nor signs indicating that groceries were on sale in the premises. The interior of the store, the dimensions of which are about 25' x 35', was stocked with greeting cards, toys, stationery products, magazines, sporting equipment and candies. On two shelves, each 6' x 2', there was a meager supply of what might be characterized as groceries.

"The licensee gave the agent a signed sworn statement wherein he declares 'I sell some groceries in my store -- about 30 per cent in groceries and about 70 per cent in confectionery products, stationery products, toys, fountain service, ice cream, magazines and newspapers -- it is mainly a stationery store with a sideline of groceries'.

"The defendant's testimony at the hearing concerning a more detailed account of his business merely confirms, in my opinion, the broad outline thereof as set forth in his statement.

"My conclusion, from the evidence presented, is that the licensee, in attempting to comply with the pertinent statute, merely made a pretense of converting his business from a confectionery and toy store to a grocery store, and did not at any time conduct a bona fide food store as defined in the decision in the previous cancellation.

"I, therefore, recommend that defendant's license be cancelled and declared null and void."

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 herein, I concur in and adopt the findings and recommended conclusions of the Hearer.

While these proceedings were pending defendant obtained a renewal of his license for the 1957-58 licensing year, which license is also number DL-1, and was issued to defendant trading

as Polsky's Confectionery-Grocery Store. The license so renewed will be cancelled and declared null and void. Rule 3, State Regulation No. 16.

It may be well to point out that, unlike the situation that existed in April 1952 when the previous cancellation was ordered, no new limited retail distribution license may be issued to defendant even if he can establish that he is presently conducting a bona fide food store because issuance of a new license of that type is prohibited by R. S. 33:1-12.27 which became effective May 23, 1952.

Accordingly, it is, on this 16th day of July, 1957,

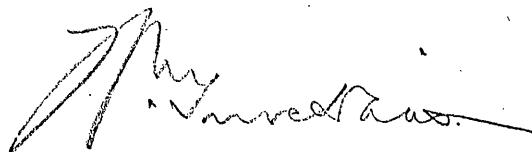
ORDERED that Limited Retail Distribution License DL-1, issued by the Town Council of the Town of Harrison to Abraham Polsky, trading as Polsky's Confectionery-Grocery Store, for premises 603 Harrison Avenue, Harrison, be and the same is hereby cancelled and declared null and void, effective at 9:00 a.m. July 22, 1957.

WILLIAM HOWE DAVIS
DIRECTOR

9. STATE LICENSES - NEW APPLICATION FILED.

Gold Star Liquors, Inc.
183-187 Monroe Street
Passaic, New Jersey

Application filed September 6, 1957 for additional warehouse on Plenary Wholesale License W-59 at Branch Warehouse in Building #12H of Botony Mills, Inc., on Sherman Street between Parker and Dayton Avenues, Passaic, New Jersey



William Howe Davis
Director