

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

BULLETIN 1397

August 9, 1961

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New Jersey State Library

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

BULLETIN 1397

August 9, 1961

1. APPELLATE DECISIONS - REMLEY v. PATERSON.

MILDRED REMLEY, t/a Family Bar)
& Grill,)

Appellant,)

v.)

BOARD OF ALCOHOLIC BEVERAGE)
CONTROL FOR THE CITY OF)
PATERSON,)

Respondent.)

ON APPEAL
CONCLUSIONS
AND ORDER

Feder & Rinzler, Esqs., by Joseph A. Feder, Esq., Attor-
neys for Appellant
William J. Rosenberg, Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of the respondent whereby on October 5, 1960, it suspended appellant's license for seventy-five days after finding appellant guilty in disciplinary proceedings of charges alleging sale, service and delivery of alcoholic beverages to four minors and allowing, permitting and suffering the consumption of said alcoholic beverages by said minors on her licensed premises, in violation of N.J.S.A. 33:1-77 and Rule 1 of State Regulation No. 20. Appellant's premises are located at 613 Main Street, Paterson.

"Upon the filing of this appeal an order was entered on October 7, 1960, staying respondent's order of suspension until the entry of a further order herein. R.S. 33:1-31.

"The appellant in her petition of appeal alleges that the action of the respondent was discriminatory, unreasonable and against the weight of the evidence and that the penalty was excessive.

"A motion for dismissal of the charge alleging sale on May 23, 1960, of alcoholic beverages to James ---, an alleged minor, was granted when it was explained by the respondent's attorney that the person in question is a non-resident and at present is a member of the armed forces stationed in another State.

"Walter --- (born February 17, 1940) testified that 'a little after one o'clock in the morning' on July 30, 1960, he visited appellant's licensed premises when he ordered and was served a glass of beer by the appellant who did not question him regarding his age; that he went to the juke box and, when he returned to the bar, he treated a man and woman to a beer; that, as he held his glass of beer to his lips, two police officers walked toward him and one, whom he knew, asked him his age; that, when he told the officer he was twenty years of age, the officer called the appellant and spoke to her.

"Milton A. Lane, employed as a police officer, testified that at 1:28 a. m. on July 30, 1960, as a result of a call that 'a juvenile' was drinking at appellant's licensed premises he went there and when he entered he recognized Walter as a former paper boy on his beat; that when Walter produced 'a draft card' which disclosed that he was born in February 1940 he showed it to the appellant who insisted that some time previously she had inspected same and that it had indicated that Walter was born in 1938.

"John --- testified he was born October 2, 1940; that he visited appellant's licensed premises on one occasion (the date of which he did not remember); that, when he ordered a glass of beer, the appellant refused to serve him because of lack of proof of age; that he told her he was twenty-four years old and, although the appellant walked away, she returned and asked whether he 'would sign an ABC affidavit stating I was twenty-one' and reminded him that he was liable to be fined if he wasn't; that on the paper he signed his buddy's name.

"Alfred --- testified that he was born on March 12, 1940; that on or about September 11, 1960, he and a companion visited the appellant's licensed premises; that he was not questioned by appellant concerning his age; that he did not remember although he may have told appellant that he was a part-time bartender because at closing time, as a favor over a period of six months, he helped a bartender employed at another licensed premises by gathering empty glasses; that, after appellant served him a glass of beer on the time in question, he remained in the premises for fifteen or twenty minutes.

"Appellant testified that on July 30, 1960 at 'around two o'clock in the morning' Walter came into her licensed premises and ordered a glass of beer; that he then walked to the juke box and as he picked up the glass of beer upon his return to the bar, two police officers entered the premises and went directly to him; that three days prior thereto when Walter was unable to furnish proof of his age she refused to serve him; that he then left the premises but within a short time thereafter he returned with a birth certificate and that she 'passed it up the aisle for people to check it and I gave him the beer.'

"Walter's and defendant's testimony is in agreement that on July 30, 1960 when defendant served him a glass of beer two police officers entered and came directly to him. However, Walter denies the birth certificate episode and contends that defendant never questioned him concerning his age.

"The only defense provided by the Alcoholic Beverage Law in the case of sale or service of an alcoholic beverage to a minor or consumption of an alcoholic beverage by a minor on licensed premises is that wherein all the following facts affirmatively appear: (a) that the minor falsely represented himself in writing to be of age, (b) that the minor's appearance was such that an ordinary prudent person would believe him to be of age, and (c) that the sale was made in reliance upon such written representation and appearance and in the reasonable belief that the minor was of age. See R.S. 33:1-77; Re Butera, Bulletin 606, Item 4; Re Roey, Bulletin 747, Item 3 (certiorari denied by N. J. Sup. Ct. in Roey v. Hock, reprinted in Bulletin 758, Item 2). Hence, it is not a defense that mere verbal inquiry may have been made as to the age of the minor or that the minor had verbally misrepresented his age or that the minor had displayed some document (such as a driver's license or birth certificate) which represented his age as

over 21. The representation in writing required by the Alcoholic Beverage Law is a writing made by the minor at the time of sale or service. See Re Fornaro, Bulletin 339, Item 10; Re Cedar Bar of Bergen County, Inc., Bulletin 942, Item 5; Re Wedemeyer, Bulletin 1050, Item 8.

"There is no question that John signed a paper with a fictitious name and misstated his age after defendant refused to serve him with beer. I am satisfied from the record that although this was so, his appearance was such that an ordinary prudent person would not believe him to be twenty-four years old. I agree with the opinion expressed by the members of respondent Board at the time of imposition of penalty that John 'does not appear to be twenty-one.' Thus the defense prescribed by the statute does not appear to have been followed and established by appellant insofar as John is concerned. I am satisfied that appellant is guilty of sale and service of alcoholic beverages to John, Walter and Alfred as alleged in the charges preferred by the respondent herein.

"The respondent suspended appellant's license for fifteen days for sale of alcoholic beverages to each of the four minors and fifteen days in addition thereto for the 'recurrent violations', making a total of seventy-five days.

"I have carefully examined the record herein and recommend that an order be entered affirming respondent's action in finding appellant guilty of sale of alcoholic beverages to three minors, namely, John, Walter and Alfred. I further recommend that in so far as appellant being found guilty of sale of beer to James is concerned, the action of respondent must be reversed.

"It is further recommended that in view of the dismissal of the charge relating to James, the penalty of seventy-five days by respondent be reduced to a period of sixty days. Cf. Doornbos v. Paterson, Bulletin 1221, Item 4."

No exceptions to the Hearer's Report were filed with me within the time limited by Rule 14 of State Regulation No. 15. After careful consideration of the facts and circumstances in the instant matter, I concur in the findings and recommended conclusions of the Hearer and I adopt them as my conclusions herein.

The suspension of seventy-five days imposed by respondent Board was to become effective on October 10, 1960. On October 7, 1960, upon the filing of the appeal herein, I entered an order staying respondent Board's order of suspension pending determination of the appeal. I shall vacate said order and enter an order herein modifying the suspension of appellant's license from seventy-five to a suspension of sixty days.

The records of this Division disclose that on February 8, 1961, during the pendency of this appeal, the license in question was transferred to Main Family Bar, Inc., t/a Main Family Bar, Inc. for premises 613 Main Street, Paterson. Thus, the said license, now held by Main Family Bar, Inc. is subject to the suspension imposed by order herein. Rule 13 of State Regulation No. 15.

Accordingly, it is, on this 8th day of May, 1961,

ORDERED that the suspension of Plenary Retail Consumption License C-305 is modified from a suspension of seventy-five days to a suspension of the license for a period of sixty days;

and it is further

ORDERED that my order dated October 10, 1960 be vacated, effective at 3:00 a. m. on Monday, May 15, 1961, and license C-305, formerly held by appellant but now held by Main Family Bar, Inc., t/a Main Family Bar, Inc., issued for premises 613 Main Street, Paterson, be and the same is hereby suspended for sixty (60) days, commencing at 3:00 a. m., Monday, May 15, 1961, and to remain in effect until the expiration of said license at midnight, June 30, 1961; and it is further

ORDERED that any renewal or transfer of said license shall be and remain under suspension until 3:00 a. m., Friday, July 14, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - McCANN'S WINDSOR HOTEL, INC. v. BELMAR

| | | |
|-------------------------------|-------------|-----------|
| McCANN'S WINDSOR HOTEL, INC. |) | |
| | Appellant, |) |
| v. | | ON APPEAL |
| |) | |
| BOARD OF COMMISSIONERS OF THE |) | ORDER |
| BOROUGH OF BELMAR, |) | |
| | Respondent. |) |

George A. Costello, Esq., Attorney for Appellant
Harold Feinberg, Esq., Attorney for Respondent

BY THE DIRECTOR:

This is an appeal from the action of respondent on September 13, 1960, whereby it imposed certain conditions when it granted renewal of appellant's license for the 1960-61 licensing year. The licensed premises are located at 201 Fourth Avenue, Belmar.

This case was partially heard on February 2, 1961, and continued to May 18, 1961. Prior to the adjourned date, the attorneys for the respective parties filed with me a stipulation reciting that the issue herein had been amicably settled and consenting to the entry of an order dismissing the appeal. No reason appearing to the contrary,

It is, on this 17th day of May, 1961,

ORDERED that the within appeal be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS (Newark) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MILDRED YAKABOFSKI t/a Ben's Bar & Grill 189 Pacific Street Newark 5, New Jersey,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-256, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

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

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that she possessed on her 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 April 11, 1961, an ABC agent tested defendant's open bottles of alcoholic beverages and seized a 4/5 quart bottle of "Seagram's Seven Crown American Blended Whiskey, 86 Proof" for further tests 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 substantially in solids, acids and color.

Defendant has no prior adjudicated record. I shall suspend her license for ten days, the minimum penalty imposed in "refill" cases involving one bottle. 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 9th day of May, 1961,

ORDERED that plenary retail consumption license C-256, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Mildred Yakabofski, t/a Ben's Bar & Grill, for premises 189 Pacific Street, Newark, be and the same is hereby suspended for five (5) days, commencing at 2 a. m. Monday, May 15, 1961, and terminating at 2 a. m. Saturday, May 20, 1961.

WILLIAM HOWE DAVIS DIRECTOR

4. DISCIPLINARY PROCEEDINGS (New Brunswick) - GAMBLING - LICENSE
SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

DE LUXE, INC.)
t/a DeLuxe, Inc.)
254 George Street)
New Brunswick, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-59, issued by the Board of)
Commissioners of the City of New)
Brunswick.)

John A. Lynch, Esq., by Edward R. Gavarny, 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 February 27, March 2, 3, and 4, 1961, and
on divers days prior thereto, 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."

On February 27, 1961, an ABC agent who was in defen-
dant's premises observed Anton Stefen (secretary-treasurer of
defendant corporation) hand slips of paper to Rubin Goldman
(a patron) who asked "What race are they for?"

On March 2, 1961, the same agent entered defendant's
premises about 1:10 p. m. Stefen was tending bar. Goldman
entered shortly thereafter and accepted money from two other
patrons at the bar directly in front of the bartender. The
agent later placed with Goldman a \$5 bet on a horse running
on that day.

On March 3, 1961, the same agent entered defendant's
premises about 1:55 p. m. Stefen was then tending bar and
Goldman entered shortly thereafter. During this visit the
agent placed with Goldman a \$2 bet on each of two horses. In
response to an inquiry by the agent, the bartender promised
to hold any money won by the agent if he was unable to return
on the following day.

On March 4, 1961, the aforesaid agent and another
agent entered defendant's premises about 1:15 p. m. Both
agents had in their possession one-dollar bills, the numbers
on which had been previously noted. Stefen was tending bar.
Goldman entered later and each agent placed with him bets on
horses running on that day. As prearranged, two County Detec-
tives and a third agent then entered the premises and the
detectives placed Goldman under arrest. Betting slips and
\$172.16 were found in his possession. Stefen gave to the
agents a statement wherein he admitted that Goldman had been
accepting bets on the premises for the past two months and
that he had placed bets with Goldman on two occasions.

Defendant has no prior record. In attempted mitiga-
tion, the attorney for defendant has submitted a letter which

I have carefully considered. However, I find nothing therein which would warrant me in imposing less than the minimum penalty imposed in similar cases. I shall suspend defendant's license for twenty-five days. Re Llewellyn Recreation Center, Bulletin 1146, Item 1; Re Tomczyk & Stolarz, Bulletin 1327, Item 7. Five days will be remitted for the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 15th day of May, 1961,

ORDERED that Plenary Retail Consumption License C-59, issued by the Board of Commissioners of the City of New Brunswick to De Luxe, Inc., t/a De Luxe, Inc., for premises 254 George Street, New Brunswick, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m., Tuesday, May 23, 1961, and terminating at 2:00 a.m., Monday, June 12, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS (Clinton Twp.) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

SUNSET INN, INC.)
t/a "Sunset Inn Inc.")
West Side of Highway #69)
Near Int. of High Bridge Road)
Clinton Township)
PO Clinton R.D., New Jersey)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-8, issued by the Township Committee of Clinton Township.)

Hauck & Sutton, Esqs., by Anthony M. Hauck, Jr., Esq., Attorneys 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 in and upon its licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On April 27, 1961, an ABC agent tested defendant's open stock of liquor and seized a number of bottles for further tests by the Division's chemist. The chemist's report discloses that when compared with the contents of genuine bottles of the same items, the contents of two of the seized bottles were high in acids and varied in color and the contents of the third bottle were high in acids and solids and the color was darker. Nicholas Kira, president of subject corporation, acknowledged in writing that he had refilled the two bottles.

Defendant has no prior adjudicated record. I shall suspend its license for twenty days, the minimum penalty imposed in a refill case involving three bottles. Re The Union News Co., Bulletin 1326, Item 12. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 17th day of May 1961,

ORDERED that Plenary Retail Consumption License C-8, issued by the Township Committee of Clinton Township to Sunset Inn, Inc., t/a "Sunset Inn Inc.", for premises on West Side of Highway #69 Near Int. of High Bridge Road, Clinton Township be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m., Wednesday, May 24, 1961 and terminating at 2:00 a.m., Thursday, June 8, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS (Monroe Twp.) - VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - TWO SEPARATE VIOLATIONS - PRIOR RECORD - LICENSE SUSPENDED FOR 75 DAYS.

In the Matter of Disciplinary Proceedings against

BREZ, INC.
t/a "Union Valley Tavern"
Union Valley Road
Monroe Township
PO RD #1, Cranbury, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Monroe.

Leo J. Berg, Esq. Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the 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 Sunday, September 4, 1960 between 1:25 P.M. and 1:30 P.M., you allowed, permitted and suffered the removal from your licensed premises of alcoholic beverages in their opened containers; in violation of Rule 1 of State Regulation No. 38.
- '2. On Sunday, October 9, 1960 between 3:15 P.M. and 3:30 P.M., you allowed, permitted and suffered the removal from your licensed premises of alcoholic beverages in their opened containers; in violation of Rule 1 of State Regulation No. 38.'

"To substantiate the charges, the Division called as its witnesses four ABC agents who participated in the investigation of defendant's licensed business. They will be referred to hereinafter as Agents J, D, M & G.

"Succinctly stated, the testimony adduced with respect to Charge 1 is as follows: At about 1:25 p.m., Sunday, September 4, 1960, Agents J and D drove to defendant's licensed premises where they observed several men proceeding toward the rear of the tavern building. Agent J followed them into a small barroom where Louis A. Hode, secretary of the corporate-licensee, was tending bar. One of the men asked for a pint of sherry wine and Hode went into the kitchen and emerged therefrom with a pint bottle of the beverage requested. Before handing the bottle to the man he twisted the cap thereon to break the seal. Another man then asked for a pint of wine and Hode looked at the agent and asked, 'What is yours?'

Agent J asked for a pint of wine 'to take home'. Hode got two bottles of wine from the kitchen and, after breaking the seal on each bottle, handed one to the man, the other to the agent and accepted from each 60 cents in payment. Agent J put the bottle of wine in his pocket, walked out of the premises and rejoined Agent D. The man also left with his purchase, got into his car and drove off. Shortly thereafter, Agent J re-entered the premises, accompanied by Agent D, who showed Hode the bottle of wine and asked him if he had sold it. Hode replied that he sold the bottle of wine to Agent J 'to drink on the premises'.

"The testimony of Agent D respecting his participation in the investigation corroborates that of Agent J.

"The following testimony was adduced to substantiate Charge 2: At 3:15 p.m., Sunday, October 9, 1960, Agents M and G arrived in the vicinity of defendant's licensed premises and shortly thereafter agent M entered the rear barroom. Several patrons were at the bar purchasing pint bottles of whiskey from Hode. Agent M ordered a beer and, while consuming it, observed that Hode removed the original caps from the bottles of whiskey and recapped them with assorted caps lying on the counter and placed a paper cup on each bottle. When the patrons left the premises, some of them took the cups with them, some discarded the cups and put the bottles in their pockets and others carried the bottles in their hands. Agent M then asked for a pint of Wilson 'to take home' and Hode proceeded to do what he had done with the other purchases and handed the bottle of 'Wilson' with a paper cup on it to the agent, who said, 'I won't need that cup. I'm going to take that home with me'. Agent M paid Hode \$3.00, left the premises with his purchase, rejoined Agent G and showed him the bottle of whiskey. Agent M, accompanied by Agent G, immediately re-entered the barroom and informed Hode of the violation. Hode protested that he sold the whiskey for consumption on the premises; that the entire area was licensed; that he ran after Agent M when he drove out of the lot and that he couldn't watch the entire licensed premises which included the parking area. The testimony of Agent G respecting his participation in the investigation corroborates that of Agent M.

"Louis A. Hode and two of defendant's patrons appeared as witnesses for the corporate-licensee.

"With respect to Charge 1 Hode testified that there were a number of people in the barroom when Agent J entered; that 'I did open up bottles of wine. I informed the people it was for on-premises consumption, not to remove it from the premises. I watched them. They had a drink and walked outside. Some used the paper cup and some didn't; some would rather drink from the bottle and walk around the yard and take a drink'; that when Agent J asked for a pint of sherry wine to take home he was told that he could have a bottle to consume on the premises; that he described the premises and told him 'you don't have to be confined in this room... these fellows are perfectly contented to sit around outside and drink the wine'; that he broke the seal and gave the agent the pint bottle of wine and paper cup; that 'when my back was turned for an instant or two, maybe ten or fifteen seconds, he ran out the door'; that Agent D 'pulled up in an automobile quite fast, I looked and he (Agent J) was in there'; that Agent J said, 'You sold me this to go' and I said, 'I am sorry, sir, I did not sell you that to go'.

"Respecting Charge 2 Hode testified that Agent M asked him for a pint of whiskey to go and that he informed the agent that it was against the law and he wouldn't do it; that Agent M said, 'Give it to me and I'll drink it here'; that he broke the seal and gave him the pint bottle of Whiskey and a paper cup;

that one of the patrons asked what he had for a sandwich; that he walked into the kitchen to check and that when he returned the agent had disappeared; that he hollered, 'Where did that guy go?'; that Agent M walked in with the whiskey and said, 'You sold me this pint of whiskey to go' and that he said, 'I am sorry. I did not sell you the pint of whiskey to go. If that pint of whiskey was removed from here...you took it from behind my back'.

"One of the patrons testified that Agent M asked if he could get him a bottle to take out and that he told him, 'No, you cannot buy nothing to take out on Sunday' and that he saw the agent talking to Hode but didn't know what they were talking about.

"The other patron testified that he heard Agent M say to Hode, 'I don't want the paper cup', but didn't hear any other conversation.

"Considering the testimony adduced herein and having had the opportunity to judge the credibility of the witnesses, I find that the testimony of the agents convincingly reflects what transpired on the dates alleged in the charges and clearly indicates that Hode sold the wine and whiskey to the agents for off-premises consumption and that, contrary to Hode's testimony, the sale was made without any admonition by him to the agents that the beverages must be consumed on the licensed premises.

"The practices engaged in by Hode of breaking the seals on original containers, substituting different caps thereon and supplying paper cups to the purchasers was obviously intended to circumvent the spirit and letter of Rule 1 of State Regulation No. 38. I conclude, therefore, that the Division has established the truth of the charges by more than a fair preponderance of the believable evidence and I recommend that defendant be found guilty as charged.

"Defendant has a prior adjudicated record. Effective March 18, 1957 and February 3, 1958 its license was suspended by the local issuing authority for ten and twenty-five days, respectively, for "hours" violations. In fixing the penalty, the violations committed on September 4, 1960 and October 9, 1960 should be considered as separate violations. Re Club Rainbow Inc., Bulletin 1269, Item 4. Since the four similar violations occurred within a five-year period, I further recommend that an order be entered suspending defendant's license for seventy-five days. Re Titone, Bulletin 1293, Item 2."

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

Having carefully considered the entire record herein, including the transcript of the testimony and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 18th day of May, 1961,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Monroe to Bréz, Inc., t/a "Union Valley Tavern", for premises on Union Valley Road, Monroe Township, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m., Monday, May 29, 1961; and it is further

ORDERED that any renewal for the 1961-62 licensing year or transfer of said license shall be and remain under suspension until 3:00 a.m., Saturday, August 12, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS (Trenton) - GAMBLING - LOTTERY - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CHARLES P. BUTTACI)
t/a Buttaci's Bar)
400 Lamberton Street)
Trenton 10, New Jersey,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-175, issued by the Board of Commissioners of the City of Trenton.)

Stephen J. Zielinski, Esq., Attorney for Defendant-licensee Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On March 21, 23 and 28, 1961, you allowed, permitted and suffered gambling, viz., the making and accepting of bets in lotteries commonly known as the 'numbers games', in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.
- "2. On March 21, 23 and 28, 1961, you allowed, permitted and suffered tickets and participation rights in lotteries commonly known as the 'numbers games' to be sold and offered for sale, in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

At 1 p.m. on March 21, 1961, while in defendant's licensed premises, an ABC agent heard Edward Lyons (who was tending bar) say to a man called Lush (subsequently identified as Willard Jesse Kinsey), "now, I'll give you my plays." The bartender took two small slips of paper from the back bar, placed them in front of Lush and began writing numbers thereon. Lush then turned to the agent and asked him if he wished to play a number and, when the agent seemed hesitant, Lush took three number pool slips from his pocket and asked if the agent had ever tried anything like that. The agent purchased one of the number pool slips, handed Lush \$1 in payment therefor and told the bartender to put the forty-cents change due to the agent on the slip containing the numbers which the bartender had prepared.

On March 23, 1961, at 12:15 p.m., the agent again visited defendant's premises and gave to bartender Lyons twenty cents for Lush to put down on a number.

On March 28, 1961, about 1:30 p.m., the same agent who had made the prior visits entered the defendant's premises with a one-dollar bill (the serial number of which had been previously recorded). He asked bartender Lyons for Lush in order to play a number, and Lyons pointed to the other side of the room. The agent gave Lush twenty cents on a number and paid him with the marked one-dollar bill. Thereafter agents who had waited outside accompanied by local police detectives, entered and Lush, upon request, emptied his pockets and the dollar-bill given him by the agents in payment of the bet was produced.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty-five days, the minimum suspension in a case when a licensee or his employee is involved. Re Kosakowski, Bulletin 1369, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 18th day of May 1961,

ORDERED that plenary retail consumption license C-175, issued by the Board of Commissioners of the City of Trenton to Charles P. Buttaci, t/a Buttaci's Bar, for premises 400 Lamberton Street, Trenton, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Wednesday, May 31, 1961, and terminating at 2 a.m., Tuesday, June 20, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS (Hoboken) - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

FAIR WINE AND LIQUOR STORES
1128 Washington Street
Hoboken, N. J.

Holder of Plenary Retail Distribution License D-11, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.

CONCLUSIONS
AND ORDER

Defendant-licensee by John Kormanik, President.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On April 4, 1961, you sold and offered for sale, at retail, directly or indirectly, a 4/5 quart (fifth) bottle of Cutty Sark Blended Scots Whisky, an alcoholic beverage, at less than the price thereof filed with the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30."

At 1:05 p.m. on Tuesday, April 4, 1961, two ABC agents entered defendant's licensed premises and purchased a fifth of Cutty Sark Blended Scots Whisky from John Kormanik, president of the corporate licensee, for the sum of \$6.10. The minimum resale price then in effect for said item was \$6.78. The agents left the premises with their purchase, re-entered the same within a few minutes and identified themselves to Mr. Kormanik, who verbally admitted aforesaid violation.

Defendant has a prior adjudicated record. Effective April 10, 1944, its license was suspended by the then Commissioner for five days in a "front" case. Re Fair Wine and Liquor Stores, Inc., Bulletin 611, Item 6. Since the prior violation occurred more than ten years ago, it will not be considered in fixing the penalty herein. Re Strittmatter, Bulletin 1382, Item 2. I shall

suspend its license for the minimum period of ten days. Re Alexander's Delicatessen & Caterers Corp., Bulletin 1382, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 22nd day of May 1961,

ORDERED that Plenary Retail Distribution License D-11 issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Fair Wine and Liquor Stores, for premises 1128 Washington Street, Hoboken, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m., Monday, May 29, 1961 and terminating at 9:00 a.m., Saturday, June 3, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISQUALIFICATION REMOVAL PROCEEDINGS - PRIOR APPLICATION DENIED - FIVE YEARS GOOD CONDUCT - PRESENT APPLICATION GRANTED.

In the Matter of an Application to)
Remove Disqualification because of)
a Conviction, Pursuant to R.S. 33:)
1-31.2.)
Case No. 1610)
-----)

CONCLUSIONS
AND ORDER

BY THE DIRECTOR:

By order dated October 3, 1951, the then Director denied a previous similar application filed by the applicant herein. Re Case No. 923, Bulletin 918, Item 13.

It appears from the conclusions and order in the previous case that applicant, on May 24, 1934, was sentenced to an indeterminate term in the New Jersey Reformatory after a conviction for the crime of robbery.

Applicant's fingerprint returns indicate that he was paroled from the Reformatory on August 10, 1935; that he was arrested on a gaming charge in November 1950, held for the Grand Jury following his arrest but was not indicted, and that he has not been arrested or convicted of any other offense except in December 1950 for violating a city ordinance (inmate of a gambling house) for which he was fined \$25 as set forth in the previous conclusions and order.

At the hearing herein applicant testified that he is married and has resided with his wife at his present address for the past eight years; that for a number of years following his previous hearing he conducted a scrap paper business, and for the past year and until recently when he was laid off, he worked for a company making freight cars. He testified that he is seeking relief herein so that he may accept employment in licensed premises.

At the hearing herein, a retired Deputy Police Chief testified that he has known applicant for twenty-five years; the president of a corporation engaged in the waste business testified that he has known applicant for eleven years, and the operator of a used-car business testified that he has known applicant for ten years. All testified that he now bears a reputation as a law-abiding citizen.

The Police Department of the municipality in which applicant resides has advised me in writing that no complaints or investigations concerning him are pending.

Considering all the aforesaid facts, I am satisfied that applicant has conducted himself in a law-abiding manner for more than five years last past, and that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 19th day of May, 1961,

ORDERED that applicant's statutory disqualification, because of the convictions described herein, be and the same is hereby removed in accordance with the provisions of R.S. 33:1-31.2.

WILLIAM HOWE DAVIS
DIRECTOR

10. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN CLUB - STOCK OF ALCOHOLIC BEVERAGES AND CASH ORDERED FORFEITED.

In the Matter of the Seizure)
of a quantity of alcoholic)
beverages and \$76.09 in cash)
at premises occupied by the)
Trenton Hungarian Athletic)
Club, located at Beatty and)
Grand Streets, in the City of)
Trenton, County of Mercer, and)
State of New Jersey)

Case No. 10,188)

ON HEARING
CONCLUSIONS
AND ORDER

Jozsef Hamari, Pro Se, claimant.
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, Chapter 1, Revised Statutes of New Jersey, to determine whether a quantity of alcoholic beverages, and \$76.09 in cash described in a schedule attached hereto, seized on January 2, 1960 at the Hungarian Athletic Club, located on Beatty and Grand Streets, Trenton, New Jersey, constitute unlawful property and should be forfeited.

When this matter came on for hearing, pursuant to R.S. 33:1-66, Jozsef M. Hamari, the president of the Trenton Hungarian Athletic Club and the operator of these premises, appeared, and sought the return of the seized cash.

The reports of ABC agents and other documents in the file, which were presented in evidence with the consent of counsel for Jozsef Hamari, the claimant, disclose the following facts: On December 26, 1959 at about 9:15 P.M. ABC agents C and D entered the premises operated by the defendant herein and proceeded to the basement of this two-story brick building wherein were located several bowling alleys, a ballroom, a recreation room and a kitchen. Upon entering the kitchen, they ordered alcoholic beverages from Hamari who was tending bar, and he sold them two bottles of Krueger beer. Shortly thereafter they purchased and paid for two additional bottles of beer and observed that other persons also purchased alcoholic beverages.

On Saturday, January 2, 1960 Agents C & D returned to the premises and again purchased two bottles of beer from Hamari for which payment was made with one-dollar bills, the serial numbers

of which had previously been recorded. At the time of this purchase many other persons in the basement made similar purchases of alcoholic beverages. Shortly thereafter, local police officers entered the premises and the ABC agents and the officers disclosed their identity to Hamari, and placed him under arrest. The cash and alcoholic beverages were seized.

Samples of the alcoholic beverages were analyzed by the Division chemist who reports that they were blended whiskey, rum, and malt alcoholic beverages fit for beverage purposes. The blended whiskey had an alcoholic content by volume of 43.1 percent. Neither Jozsef Hamari nor the Trenton Hungarian Athletic Club held any license authorizing the sale of alcoholic beverages.

The illicit whiskey and the \$76.09 in cash seized therewith, in the basement, constitute unlawful property and are subject to forfeiture, R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

The claimant, Jozsef Hamari, testified that he was not sure of the exact amount of money that was seized, and for that reason appeared at the hearing. However, during the course of the hearing, and while on the witness stand under oath, he withdrew his claim to the monies in question.

The seized alcoholic beverages are illicit because they were intended for sale without a license R.S. 33:1-1(i).

Such illicit alcoholic beverages and the cash seized in the premises and set forth in Schedule "A", annexed hereto, constitute unlawful property and are subject to forfeiture. R.S. 33:1-2; R.S. 33:1-66.

Accordingly, it is DETERMINED and ORDERED that the seized property, including the \$76.09 in cash, 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 that the alcoholic beverages be 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: May 23, 1961

SCHEDULE "A"

- 3 - cases of beer
- 3 - bottles of other alcoholic beverages
- \$76.09 in cash

11. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED -
 LICENSE SUSPENDED FOR 10 DAYS LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 AL'S TAVERN, INC.
 t/a AL'S TAVERN
 512 N. Clinton Avenue
 Trenton 9, N. J.
 Holder of Plenary Retail Consumption License C-120 (for the 1960-61 and 1961-62 licensing years), issued by the Board of Commissioners of the City of Trenton.

CONCLUSIONS
 AND ORDER

 Defendant-licensee, by Walter H. Neuls, Jr., President.
 David S. Piltzer, 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 May 17, 1961 an ABC agent gauged and tested defendant's open stock of assorted brands of liquor and seized a quart bottle of Seagram's V.O. Canadian Whisky, the contents of which appeared to be off in color and low in proof. The questionable whisky was turned over to the Division's chemist for analysis and his report shows that it is too high in solids and too dark in color when compared with the genuine product of the named brand.

Defendant has no prior adjudicated record. I shall suspend its license for ten days, the minimum penalty imposed in "refill" cases involving one bottle. Re Rossetti, Bulletin 1258, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 17th day of July, 1961,

ORDERED that Plenary Retail Consumption License C-120, issued by the Board of Commissioners of the City of Trenton to Al's Tavern, Inc., t/a Al's Tavern, for premises 512 N. Clinton Avenue, Trenton, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m., Monday, July 24, 1961, and terminating at 2:00 a.m., Saturday, July 29, 1961.


 William Howe Davis
 Director

New Jersey State Library