

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

BULLETIN 1400

August 15, 1961

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1. APPELLATE DECISIONS - BLANCK ET AL. v. MAGNOLIA AND D'AMICO

HORACE W. BLANCK and ANGELA V.)	
BLANCK, t/a BLANCK'S LIQUOR)	
STORE, and SOUTH JERSEY RETAIL)	
LIQUOR STORE ASSOCIATION,)	
)	
Appellants,)	ON APPEAL
)	CONCLUSIONS
v.)	AND ORDER
)	
MAYOR AND COUNCIL OF THE BOROUGH)	
OF MAGNOLIA, and HARRY R. AND)	
CATHARINE D'AMICO, t/a D'AMICO)	
LIQUORS,)	
)	
Respondents.)	

Richman and Berry, Esqs., by Grover C. Richman, Jr., Esq., Attorneys
for Appellants
M. F. VanIstendal, Jr., Esq., Attorney for Respondent Mayor and
Council
Norman Heine, Esq., Attorney for Respondents Harry R. and
Catharine D'Amico

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Appellants appeal from the action of respondent Mayor and Council whereby it granted an application filed by respondents Harry R. and Catharine D'Amico for a plenary retail distribution license for premises to be erected at 200 S. White Horse Pike, Magnolia, subject to completion of said premises in accordance with plans and specifications filed with the application.

"The petition of appeal alleges that said action was erroneous for reasons which may be summarized as follows:

- (a) the ordinance under which the license was issued is invalid because respondent Harry D'Amico was president of the Borough Council at the time the ordinance became law and voted in favor of its passage;
- (b) the granting of the license is a violation of the alcoholic beverage control laws and regulations of the State of New Jersey;
- (c) there is no public need or necessity for the issuance of the license because the area is amply served by existing outlets;
- (d) the granting of the license was arbitrary, unreasonable and constituted an abuse of discretion.

"The evidence herein discloses that by an ordinance dated March 12, 1940, the Borough of Magnolia limited the number of plenary

retail consumption licenses to three and the number of club licenses to one. No provision was made therein for the issuance of any plenary retail distribution licenses.

"Respondent Mayor and Council consists of a Mayor and six Councilmen. Prior to his resignation, hereinafter considered, respondent Harry R. D'Amico had been a councilman for many years. His brother, Samuel D'Amico, has been Borough Clerk since 1941.

"At an adjourned meeting held on August 24, 1960, the Mayor and Council approved on first reading an ordinance amending and supplementing the aforesaid ordinance dated March 12, 1940. Therein it was provided that 'one (1) plenary retail distribution license shall be issued' in addition to the three plenary retail consumption licenses and one club license previously authorized and the fee for the plenary retail distribution license was fixed at \$300 per annum. At the same meeting it was provided that final passage of the amending ordinance would be considered at a public hearing to be held on October 5, 1960. Harry R. D'Amico did not attend the adjourned meeting held on August 24, 1960. At said meeting the other five councilmen voted in favor of the amending ordinance. Notice that the amending ordinance had been approved on first reading and that final passage would be considered at a regular meeting of Mayor and Council on October 5, 1960, was published in the Camden Courier-Post on September 23, 1960.

"The next regular meeting of the Mayor and Council was held on September 7, 1960. Councilman Harry R. D'Amico attended said meeting and made a motion that the minutes of the regular meeting held August 3, and the adjourned meeting held August 24 be approved. Said motion was seconded and unanimously carried.

"At the regular meeting held on October 5, 1960, the amending ordinance was read by the Borough Solicitor. Mayor Scott opened the meeting to the public and, when no comment was received, he announced that the meeting was closed to the public. Thereafter the amending ordinance was approved by unanimous vote of the five councilmen who attended said meeting. Harry R. D'Amico did not attend said meeting. He had previously presented to the Borough Clerk his resignation as a member of Council (dated October 1, 1960) and his resignation was accepted with regret before the close of the meeting held on October 5, 1960. Notice that the amending ordinance had been passed on final reading was published in the Camden Courier-Post on October 14, 1960.

"On October 7, 1960, respondents Harry R. and Catharine D'Amico filed their application, which is the subject of this appeal. On October 26, 1960, Roy Clark Myers, Jr., filed his application for a similar license for premises at 432 N. White Horse Pike, his residence, and stated therein that the licensed premises would consist of 'living room, dining room and one room in basement.'

"At the regular meeting held on November 2, 1960, the Mayor and the five remaining councilmen were present. Councilman Gavin was appointed President of Council to replace Harry R. D'Amico who had resigned and who did not attend the meeting. About eight citizens requested information as to what could be done to rescind the amending ordinance and as to the pending applications for the distribution license. They were advised that they could present a petition to rescind the amended ordinance and that the applications would be considered on the facts stated therein. The meeting was adjourned to November 7, 1960, to consider the applications for the plenary retail distribution license.

"At the adjourned meeting held on November 7, Harry R. D'Amico was not present. The Clerk advised that the two applications heretofore mentioned had been received and that no written objections had

been filed. A petition containing 142 signatures and requesting that the amending ordinance be rescinded was presented by Mrs. Vollmer. After a short recess, the Mayor and Councilmen returned to the Council chamber and announced that they felt there was no justification to rescind the amending ordinance. Mayor Scott announced that Councilman Gavin had a statement which he wished to read and which is as follows:

'We have before us two applications for Retail Distribution Liquor License.

'Application by Harry & Catharine D'Amico covers premises situate at Monroe Avenue & White Horse Pike. The proposed Home and Store Combination represents an improvement of well over \$30,000 and is located in a commercial zone, at the opposite end of the town from the existing Broad Package Privilege License now held by Angeline and Horace Blanck.

'The application of Roy C. Meyers, Jr., covers premises situated approximately 500 feet more or less from the existing Broad Package Privilege License now held by Angeline and Horace Blanck. Further, it contemplates using the existing residence as the Liquor Store, with the notation on the Application that it is only for temporary purposes and probably anticipates building another building in the future for the liquor store.

'The purpose of amending the Liquor Ordinance was as a result of a situation that was brought about approximately one year ago. At that time, considerable talk was had with respect to the possibility of erecting a Bowling Alley in Magnolia, if such enterprise could secure a Plenary Retail Consumption License. Inasmuch as the Ordinance only permits three such Licenses, the prospective builder endeavored to secure a Liquor License from one of the present Licensees. When the Retail Consumption License could not be divorced from the Broad Package Privilege, the matter was dropped.

'At that time it was the feeling of Council that consideration should be given to the establishment of a Liquor Store, as a number of people will not patronize a Tap-Room-Store combination and perforce this type of business is going to other Municipalities.

'The Ordinance restricting the establishment of Liquor Store was enacted when the population of the Borough was only 1400 people. Now, the town has a population of over 4200 people and with the increase in population generally thru out lower Camden County, the governing Body felt that a Retail Liquor Store could be a valuable addition to the Borough as a shopping convenience to the Public.

'The D'Amico application represents a Citizen of the Borough of Magnolia for the past 46 years with an enviable reputation as to character and integrity, with a long record of public service both in Municipal Government and Civic Affairs. The proposed building, combination store and residence, represents a valuable improvement and a considerable investment and certainly will do nothing but improve the Business area of the Borough of Magnolia.

'The Meyers' application represents a citizen of the Borough of Magnolia for the past 38 years and is known personally by the Governing Body and enjoys an unblemished reputation. However,

the application proposes to utilize existing residence as the Liquor Store on a temporary basis, with no details as to what is contemplated in the future nor any indication as to where it may be located.

'On the basis of the applications submitted, Location, and Building to be used for the purpose, we, the Governing Body, feel strongly that the application of Harry & Catharine D'Amico should be approved and License granted, and the application of Roy C. Meyers denied.'

"Thereafter motions to grant the application of Harry R. and Catharine D'Amico, subject to completion of premises as aforesaid, and to deny the application of Roy Clark Myers, Jr. were unanimously carried.

"At the hearing herein Samuel D'Amico, Harry R. D'Amico, Mayor Scott and Councilmen Gavin, Davis, Belzer, Mitten and Root were called as witnesses by appellants. Samuel D'Amico, Borough Clerk, identified copies of minutes of the various meetings and denied that he has any interest in the license. Harry R. D'Amico testified that the plans and specifications are dated October 3, 1960, and that he may have ordered the plans in August 1960. There is nothing in the testimony given by Mayor Scott or the five councilmen from which it may be concluded that any of them was improperly motivated.

"As to (a): It has been held that where one of the councilmen who voted in favor of an ordinance was motivated by self-interest, the ordinance would be set aside. Pyatt v. Mayor and Council of Dunellen, 9 N.J. 548 (Sup. Ct. 1952); Township Committee of Freehold Township v. Gelber, 26 N.J. Super. 388 (App. Div. 1953); McNamara v. Saddle River Borough, 64 N.J. Super. 426 (App. Div. 1960). However, respondent Harry R. D'Amico did not attend the meeting held on August 24 or any meeting subsequent to the date of his resignation. He never voted in favor of the amending ordinance or attended any meeting at which the amending ordinance was considered. I find no merit in allegation (a).

"As to (b): No evidence has been presented which would lead to the conclusion that the granting of the license was a violation of the Alcoholic Beverage Law or the Rules and Regulations of this Division.

"As to (c) and (d): Determination as to the number of licensed places to be permitted in any particular area is a matter confided, in the first instance, to the sound discretion of the issuing authority. The burden of showing an abuse of discretion rests with the appellants. Union County Retail Liquor Stores Association v. Roselle et al., Bulletin 772, Item 11. Considering the increase in population, the distance between the Blanck and D'Amico premises and the fact that the latter premises are in a commercial zone, it does not appear that respondent Mayor and Council abused its discretionary power. Moreover, under the facts of this case, it does not appear that its action was arbitrary or unreasonable.

"For the reasons aforesaid, it is recommended that an order be entered affirming the action of respondent Mayor and Council and dismissing the appeal."

Pursuant to the provisions of Rule 14 of State Regulations No. 15, the attorneys for appellants filed with me exceptions to the Hearer's Report and written argument thereto.

The cases cited in said written argument deal chiefly with zoning matters in which a member of the governing body participated in the adoption of an ordinance which, directly or indirectly, benefited said member. In the present case it does not appear that Councilman

D'Amico participated in discussions concerning the ordinance in question or that he voted in favor of the ordinance, in fact, he had submitted his resignation before the meeting at which the ordinance was adopted and he did not attend said meeting. Moreover, and of considerable import, it is well to mention that Mr. D'Amico need not have resigned from the Council to qualify as a retail licensee although, if such a situation had developed, application would then have had to be made to the Director instead of to the local governing body.

Having carefully considered the testimony, exhibits, Hearer's Report and the exceptions and written argument thereto, I concur in the findings of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 1st day of June 1961,

ORDERED that the action of respondent Mayor and Council of the Borough of Magnolia be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - SYBEL v. UNION BEACH

WILLIAM W. SYBEL, t/a VILLAGE INN,)	
Appellant)	
v.)	ON APPEAL
BOROUGH COUNCIL OF THE BOROUGH OF UNION BEACH,)	ORDER
Respondent)	
-----)	

James F. McGovern, Jr., Esq., Attorney for Appellant
Reusille, Cornwell, Mausner & Carotenuto, Esqs., by Patrick J.
McGann, Jr., Esq., Attorneys for Respondent

BY THE DIRECTOR:

It appearing that by order dated January 10, 1961, the action of respondent, whereby it suspended for three days the license issued to appellant and transferred to Julia Sybel during the pendency of the appeal, was affirmed; and

It appearing that the effective dates for said suspension were to be fixed by subsequent order because the premises were then being operated only on a limited basis (Bulletin 1376, Item 4); and

It appearing to my satisfaction that the licensed premises at 900-902 Union Avenue, Union Beach, have re-opened for the 1961 season,

It is, on this 5th day of June 1961,

ORDERED that the three-day-suspension imposed by respondent shall commence at 2 a.m. Monday, June 12, 1961, and terminate at 2 a.m. Thursday, June 15, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

Alexander Pieretti)
t/a Club 31)
31 Hensler Street)
Newark 5, New Jersey)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-124, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)
)
)

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

BY THE DIRECTOR:

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

On May 9, 1961, an ABC agent tested defendant's open stock of assorted brands of liquor and seized a quart bottle labeled "Imported Seagram's V.O. Canadian Whisky, A Blend, 86.8 Proof" for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of the seized bottle were high in solids and off in color when compared with an analysis of a sample of the genuine product.

Defendant has no prior adjudicated record. I shall suspend his license for ten days, the minimum period where one bottle is involved. Re Raimondi, Bulletin 1377, Item 11. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 1st day of June 1961,

ORDERED that Plenary Retail Consumption License C-124 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Alexander Pieretti, t/a Club 31, for premises 31 Hensler Street, Newark, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. Monday, June 12, 1961, and terminating at 2:00 a.m., Saturday, June 17, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - DATES FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON RESUMPTION OF BUSINESS.

In the Matter of Disciplinary Proceedings against)

Adam Kubelczikas and Helen Kubelczikas)
t/a "Kubel's Bar & Grill")
S/e corner 7th Street & Bayview Avenue)
Barnegat Light Borough, New Jersey,)

ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of Barnegat Light Borough.)
-----)

Julius Robinson, Esq., and Nathaniel L. Sunshine, Esq., Attorneys for Defendant-licensees
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

By order dated September 26, 1960, I suspended defendants' license for thirty days. Because it appeared that the business was then being operated only in a limited way, the order provided that the effective dates for said suspension would be fixed by subsequent order after the business was fully resumed for the 1961 season. Bulletin 1360, Item 10.

It now appearing to my satisfaction that defendants' licensed premises have reopened for the 1961 season,

It is, on this 1st day of June 1961,

ORDERED that the thirty-day suspension heretofore imposed shall commence at 2 a.m. Tuesday, June 6, 1961, and continue in effect until the expiration of the 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 2 a.m. Thursday, July 6, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

5. 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.)	
)	CONCLUSIONS AND ORDER
Case No. 1609)	
-----)	

BY THE DIRECTOR:

On July 14, 1944, the then Commissioner denied applicant's request to remove his disqualification from engaging in the alcoholic beverage industry in this State because he was convicted of vagrancy in 1929; adjudged a disorderly person (fight) on July 12, 1934; fined \$25 on a gambling charge (proprietor of a gambling home) on February 1, 1936; sentenced to serve six months in a County Jail after being convicted of a crime involving moral turpitude (arson) on June 17, 1937, and (on January 21, 1941) during the previous five years following his last conviction, received a suspended sentence after being convicted of simple assault and battery. Re Case No. 344, Bulletin 630, Item 2.

The applicant's latest criminal record discloses that on May 5, 1949 he was given a three months suspended sentence, placed on probation for neglect of minors and ordered to pay \$20 a week for the support of his minor children.

At the hearing held herein, applicant (49 years old) testified that the aforesaid order requiring him to support the children of his former marriage has been lifted; that he has remarried and is living with his wife and child; that for the past twenty-five years he has lived in the same area where he presently resides; that for more than twenty years last past he has been regularly employed by one company as a truck driver; that some of his employer's trucks are licensed for the transportation of alcoholic beverages but he was never assigned to drive any of such trucks.

Applicant further testified that he is asking for the removal of his disqualification to be free to purchase a tavern and be otherwise engaged in the alcoholic beverage industry in this State and that ever since his aforesaid conviction of non-support (not a crime involving moral turpitude) on May 5, 1949 he has not been convicted of any crime or arrested.

The police department of the municipality wherein the applicant resides reports there are no complaints or investigations presently pending against the applicant.

The applicant produced three character witnesses (a traffic representative, a clothing machine operator and a part owner of a trucking business) who testified they have known the applicant from seven to twenty-two years and that, in their opinion, he is now an honest, law-abiding citizen with a good reputation.

The only hesitation I have to grant the relief sought herein is based on the fact that the applicant, although disqualified, worked for a licensee in this State. I am, however, favorably influenced by three factors: (a) that applicant has not been convicted of crime since 1949, (b) his sworn testimony that he was unaware of his ineligibility to be employed by a licensee in any capacity; and (c) that he has been regularly employed for the past twenty years. Knowledge of the law, moreover, is not an essential prerequisite in

rehabilitation proceedings. Re Case No. 1279, Bulletin 1124, Item 8.

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

The application is granted.

Accordingly, it is, on this 2nd day of June 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

6. DISCIPLINARY PROCEEDINGS - SALES AND FAILURE TO CLOSE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Vincent James Senatore)
t/a 77th Foxhole Tavern)
104 Ann Street)
Passaic, New Jersey)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-166, issued by the Board of Commissioners of the City of Passaic.)

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On Sunday, May 7, 1961 between 12:20 P.M. and 12:25 P.M., you sold, served, delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, and allowed the consumption of alcoholic beverages on your licensed premises; in violation of Section Four (a) of an Ordinance adopted by the Board of Commissioners of the City of Passaic on July 15, 1941.
- "2. On Sunday, May 7, 1961 between 12:20 P.M. and 12:25 P.M., you failed to have your entire licensed premises closed; in violation of Section Four (c) of an Ordinance adopted by the Board of Commissioners of the City of Passaic on July 15, 1941.
- "3. On Sunday, May 7, 1961 at about 12:25 P.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., a pint bottle of Seagram's Seven Crown Blended Whiskey, at retail, in its original container for consumption off your licensed

premises and allowed, permitted and suffered the removal of said beverage in its original container from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

On Sunday, May 7, 1961, ABC agents who were in the vicinity of defendant's licensed premises observed two men enter the tavern at 12:05 p.m. and saw two other men enter at 12:10 p.m. At 12:20 p.m., one of the agents entered the premises and seated himself at the bar, at which two other men were consuming beer. The agent ordered a "shot" of whiskey and a glass of beer which were served to him by the bartender, later identified as Vincent James Senatore, the licensee. The two men who had been drinking beer departed and at 12:25 p.m. the agent asked Senatore for a pint of Seagram's to go. Senatore put a pint bottle of the requested brand of whiskey in a paper bag and handed it to the agent saying, "It's a little too early yet. I'm just cleaning up. That will be \$3.25." The agent paid Senatore, left the premises and showed his purchase to the other agent. Both agents then entered the tavern, identified themselves and informed Senatore of the violations.

The local ordinance prohibits the sale, service, delivery and consumption of alcoholic beverages on Sundays between the hours of 3:00 a.m. and 1:00 p.m. and requires that the licensed premises be closed during those hours. Rule 1 of State Regulation No. 38 prohibits the sale of alcoholic beverages in their original containers for off-premises consumption on Sundays.

Defendant has no prior adjudicated record. I shall suspend his license for fifteen days on Charges 1 and 2 and for fifteen days on Charge 3 (Re Tonks, Bulletin 1387, Item 6), making a total suspension of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 5th day of June 1961,

ORDERED that Plenary Retail Consumption License C-166, issued by the Board of Commissioners of the City of Passaic to Vincent James Senatore, t/a 77th Foxhole Tavern, for premises 104 Ann Street, Passaic, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. Monday, June 12, 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., Friday, July 7, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - DATES FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON RESUMPTION OF BUSINESS .

In the Matter of Disciplinary Proceedings against

Edward Anthony Florkowski and Anna A. Florkowski t/a Windsor Hotel S.W. Cor. First & Atlantic Avenues North Wildwood, PO Wildwood, N.J.,

ORDER

Holders of Plenary Retail Consumption License C-5, issued by the Mayor and Council of the City of North Wildwood.

James S. Cafiero, Esq., Attorney for Defendant-licensees William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

By order dated October 6, 1960, I suspended defendants' license for fifteen days. Because it appeared that the business was then being operated only on a limited basis, the order provided that the effective dates for said suspension would be fixed by subsequent order. Bulletin 1362, Item 9.

It now appearing to my satisfaction that defendants' licensed premises have fully reopened,

It is, on this 5th day of June 1961,

ORDERED that the fifteen-day-suspension heretofore imposed shall commence at 3 a.m. Monday, June 12, 1961, and terminate at 3 a.m. Tuesday, June 27, 1961.

WILLIAM HOWE DAVIS DIRECTOR

8. SEIZURE - FORFEITURE PROCEEDINGS - SUPPLEMENTAL ORDER - FAILURE TO PAY COSTS OF SEIZURE - MOTOR VEHICLE ORDERED FORFEITED.

In the Matter of the Seizure on)	
February 1, 1961 of a Lincoln)	
sedan in the City of Newark,)	Case No. 10,505
County of Essex and State of)	
New Jersey.)	SUPPLEMENTAL ORDER

BY THE DIRECTOR:

On April 20, 1961 my Order was entered in this case wherein, among other matters, I directed that a Lincoln sedan be returned to the Local Finance Company if on or before May 1, 1961 it paid the costs of its seizure and storage.

On April 20, 1961 a copy of said Order was mailed to the Local Finance Company.

On April 24, 1961 H. C. Barth, Jr., manager of the Local Finance Company was advised that the said costs assessed against the Lincoln sedan amounted to the sum of \$97.40. On May 16, 1961 the said Local Finance Company was notified by certified mail, advising it that if the said costs were not received by May 19, 1961, a Supplemental Order forfeiting the Lincoln sedan would be entered. To date the costs have not been received.

Accordingly, so much of my previous Order as directs the return of the Lincoln sedan is hereby rescinded, and, instead, it is

DETERMINED and ORDERED that the Lincoln sedan, Serial No. 53WA19737H, New Jersey Registration No. BAP-114 be and the same is hereby forfeited, in accordance with the provisions of R.S. 33:1-66, 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, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
DIRECTOR

Dated: June 5, 1961

9. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - SALES TO NON-MEMBERS - HINDERING INVESTIGATION - PRIOR RECORD - LICENSE SUSPENDED FOR 70 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 Italian American Columbus Relief Association,
 Second Street
 Woodbridge Township
 P.O. Port Reading, N. j.
 Holder of Club License CB-1, issued by the Township Committee of Woodbridge Township (Middlesex County).

CONCLUSIONS AND ORDER

 W. Howard Fullerton, 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 Thursday, April 27, 1961, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to persons not bona fide members of your club or bona fide guests of any such members; in violation of Rule 8 of State Regulation No. 7.
- "2. On Thursday, April 27, 1961, you through a person employed on your licensed premises, who was also a trustee of your association, failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation, inspection and examination at your licensed premises, then and there being conducted by investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of R.S. 33:1-35."

On April 27, 1961, two ABC agents separately entered the defendant's licensed premises and each agent purchased and was served with a bottle of beer by the bartender (later identified as Biagio Minucci), who at no time questioned them whether they were bona fide members or bona fide guests of any member. The agents consumed part of the beer and retained a small quantity for evidential purposes, and thereupon made their identity known to the said bartender and trustee.

When Biagio Minucci became aware of their identity, he shouted, "Get out of here. I didn't do anything," and refused to produce a copy of the license application. He continued his verbal abuse of the agents until it was necessary for them to call the

police. When the police arrived, Minucci appeared to be mollified, but resumed his abusive behavior immediately upon the departure of the local police. He reviled them with filthy appellations and said to agent S, "Sometime later after this I'll see you, fella". The abusive diatribe continued uninterruptedly until the agents left the premises.

Defendant has a prior adjudicated record. Effective June 18, 1951, its license was suspended by the local issuing authority for five days for sale of alcoholic beverages to non-members; effective February 25, 1952, its license was suspended for a minimum period of 35 days by this Division for "farming out" its license, for giving a false answer in its license application and for failing to notify the local issuing authority of changes in certain facts concerning the Organization (Bulletin 928, Item 3); effective January 5, 1954, its license was suspended for 55 days by this Division for the sale, service and delivery of alcoholic beverages to non-members, for the sale of alcoholic beverages for consumption off licensed premises in violation of Rule 9 of State Regulation No. 7, and for sale of alcoholic beverages for less than the price listed on the Minimum Resale Price List, in violation of Rule 5 of State Regulation No. 30 (Bulletin 998, Item 3); and effective November 9, 1959, its license was suspended for 30 days by the local issuing authority for sale to minors.

In attempted mitigation, the attorney for defendant has submitted to me a letter which I have carefully considered. However, I find nothing therein which would warrant me in imposing less than the usual penalty imposed in similar cases. The minimum suspensions for the violations hereinabove set forth are: On Charge 1, fifteen days (Re Ukrainian American Citizens Club, Bulletin 1322, Item 1); and on Charge 2, twenty days (Re Orange Sportsmen's Club, Inc., Bulletin 1228, Item 2). Under all of the circumstances herein, including the fact that this is the fifth violation in ten years, which includes a dissimilar violation within five years of the date herein, two dissimilar and one similar violation to the first charge, which occurred within ten years from the date hereof, I shall suspend defendant's license for seventy days. Five days will be remitted for the plea entered herein, leaving a net suspension of sixty-five days.

Accordingly, it is, on this 6th day of June 1961,

ORDERED that Club License CB-1, issued by the Township Committee of Woodbridge Township (Middlesex County) to Italian American Columbus Relief Association for premises on Second Street, Woodbridge Township, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m., Monday, June 19, 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 2:00 a.m., Wednesday, August 23, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5. FOR PLEA

In the Matter of Disciplinary Proceedings against)

Buschbaum Enterprises, Inc. t/a The Old Mill Inn 373 Straight Street Paterson 3, New Jersey)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-20, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

Defendant-licensee, by Robert J. Buschbaum, Vice-president and Secretary Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On Sunday, May 7, 1961 between 1:55 P.M. and 2:10 P.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of four separate orders of alcoholic beverages in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

At 1:55 p.m. Sunday, May 7, 1961, an ABC agent visited the defendant's licensed premises, wherein he observed the bartender (later identified as James Buschbaum) make three sales of alcoholic beverages for off-premises consumption. The agent then ordered six cans of beer which the bartender obtained from a rear room, handed it to the agent and obtained payment therefor. None of the sales were rung up on the cash register. The agent left the premises with his purchase and contacted a fellow agent who had remained outside. Both agents then entered the premises and, identifying themselves, informed the licensee's bartender of the violation.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of fifteen days. Re McHenry, Bulletin 1362, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 7th day of June, 1961,

ORDERED that Plenary Retail Consumption License C-20, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Buschbaum Enterprises, Inc., t/a The Old Mill Inn, for premises 373 Straight Street, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m., Monday, June 19, 1961, and terminating at 3:00 a.m., Thursday, June 29, 1961.

WILLIAM HOWE DAVIS DIRECTOR

11. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
Labeled - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Gene Kasica)
2 Monroe Street)
Garfield, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-65, issued by the Mayor)
and Council of the City of Garfield.)

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

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he possessed on his licensed premises 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 24, 1961, an ABC agent tested defendant's opened bottles of alcoholic beverages and seized three bottles for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of two of the seized bottles, when compared with the contents of genuine bottles of the same brands, varied substantially in solids and acids.

Defendant has no prior adjudicated record. I shall suspend his license for fifteen days, the minimum penalty in "refill" cases involving two bottles. Re Jay Mar Tavern, Bulletin 1386, Item 11. Five days will be remitted for the plea, leaving a net suspension of ten days.

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

ORDERED that Plenary Retail Consumption License C-65 issued by the Mayor and Council of the City of Garfield to Gene Kasica, for premises 2 Monroe Street, Garfield, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m., Monday, June 19, 1961 and terminating at 3:00 a.m., Thursday, June 29, 1961.


WILLIAM HOWE DAVIS
Director

New Jersey State Library