

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

BULLETIN 1377

FEBRUARY 21, 1961

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a threat to do bodily harm, the minimum penalty is twenty days. Cf. Re Orange Sportsmen's Club, Inc., Bulletin 1228, Item 2. This makes a total suspension of forty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty days.

Accordingly, it is, on this 4th day of January, 1961,

ORDERED that Plenary Retail Consumption License C-10, issued by the Township Committee of the Township of Mahwah to Herbert W. Pelzer, t/a Esther-Herb Pelzers, for premises on Franklin Turnpike, Mahwah, be and the same is hereby suspended for forty (40) days, commencing at 2 a.m., Wednesday, January 11, 1961, and terminating at 2:00 a.m., Monday, February 20, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SOLICITOR'S PERMIT - AIDING AND ABETTING ILLEGAL SALE OF ALCOHOLIC BEVERAGES - UNLAWFUL TRANSPORTATION - SALE OF ALCOHOLIC BEVERAGES BEYOND TERMS OF PERMIT - PERMIT SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary Proceedings against

George Good
1 High Street
Blackwood Terrace, New Jersey,

Holder of Solicitor's Permit No. 2608, issued by the Director of the Division of Alcoholic Beverage Control.

CONCLUSIONS

AND

ORDER

Stoffer and Jacobs, Esqs., by Joseph M. Jacobs, Esq., Attorneys for Defendant-permittee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that (1) he aided and abetted the illegal sale of alcoholic beverages, in violation of R.S. 33:1-52; (2) he transported alcoholic beverages in a vehicle bearing a transportation insignia affixed thereto but not pursuant to or within the terms of any license or as otherwise expressly authorized, contrary to R.S. 33:1-2, in violation of R.S. 33:1-50(a), and (3) he sold alcoholic beverages on his own behalf without being the holder of any license so to do, contrary to R.S. 33:1-2, in violation of R.S. 33:1-50(a).

It appears from the evidence established by the Division that between June 19, 1959, and September 9, 1960, defendant herein placed with his employer (a wholesaler) 32 orders for liquor valued at \$2,235.11 and billed the invoices to a club licensee which had not ordered the merchandise. It appears further that the defendant paid his employer cash for the merchandise and that it was delivered to and accepted by two retail licensees as a favor to defendant, and that defendant, without authorization, transported it in a licensed vehicle and sold it to his friends for their various social affairs.

Defendant has no prior adjudicated record. The illegal activities engaged in by him indicate a complete disregard of his solicitor's permit and justify a severe penalty commensurate with the offense. I shall take into consideration, however, that defendant has held a solicitor's permit for thirteen years, with no previous record, and, under the circumstances, shall suspend his permit for a period of one hundred eighty days.

Accordingly, it is, on this 10th day of January 1961,

ORDERED that Solicitor's permit No. 2608, issued by the Director of the Division of Alcoholic Beverage Control to George Good, 1 High Street, Blackwood Terrace, be and the same is hereby suspended for the balance of its term which expires on May 31, 1961, effective at 9 a.m. Monday, January 23, 1961; and it is further

ORDERED that, if a Solicitor's permit be issued to George Good for the 1961-62 licensing year, said permit shall be suspended until 9 a.m. Saturday, July 22, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

3. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN GROCERY STORE - STOCK OF ALCOHOLIC BEVERAGES FORFEITED - CASH DEPOSIT UNDER PROTEST FOR RETURN OF FIXTURES, FURNISHINGS, EQUIPMENT AND STOCK OF MERCHANDISE ORDERED FORFEITED.

In the Matter of the Seizure)
on June 15, 1960 of a quantity) Case No. 10,321
of alcoholic beverages, various)
furnishings, fixtures, equipment,) On Hearing
stock in trade, and \$52.28 in)
cash, at Felix Arocho's grocery) CONCLUSIONS AND ORDER
store, located at 501 Market)
Street, in the City of Newark,)
County of Essex and State of New)
Jersey.)

Bernard P. Escandon, Esq., Attorney for Felix Arocho.
I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This matter came on for hearing pursuant to R.S. 33:1-66 and a stipulation dated June 24, 1960 signed by Felix Arocho, to determine whether a quantity of alcoholic beverages, \$52.28 in cash, and various furnishings, fixtures and equipment, and stock in trade of merchandise, seized on June 15, 1960 at Felix Arocho's grocery store, located at 501 Market Street, Newark, New Jersey, constitutes unlawful property and shall be forfeited.

"Pending seizure hearing in the case, Felix Arocho deposited \$500.00 under protest, pursuant to R.S. 33:1-66 with the Director of the Division of Alcoholic Beverage Control, representing the appraised retail value of the fixtures, furnishings, equipment, and stock of merchandise, and thereupon obtained return of the property seized, excepting the alcoholic beverages and \$52.28 in cash. Felix Arocho has stipulated that such Director should determine in the present proceedings whether such sum shall be forfeited or returned to him.

"When the matter came on for hearing pursuant to R.S. 33:1-66 and such stipulation, an appearance was entered by Felix Arocho, who sought return of his deposit of \$500.00.

"An ABC agent testified that he and another agent arrived at Arocho's grocery store on June 10, 1960, and his fellow agent entered the store and then emerged in about five minutes carrying a paper bag in which there were six cans of cold beer; that on June 15th he returned to the premises, entered the grocery store, and that Felix Arocho was behind the counter; that he ordered a loaf of bread from Arocho, and after he was served with the bread asked Arocho for six cans of cold beer, whereupon, Arocho went into the back room, and returned with a paper bag in which there was the bread and six cans of beer for which the agent paid Arocho \$2.00 in 'marked money'.

"The agent then left the store with the bread and beer, joined other agents and local police officer and such officers entered the grocery store, and confronted Felix Arocho, who had very little command of the English language. Arocho was questioned, with his daughter who was present, acting as interpreter. The daughter purportedly asked her father whether he sold the beer to the agent, and his purported reply was he keeps beer for his friends, and when the agent pressed her to ask her father whether he sold beer to the agent, she spoke with her father and then nodded her head in the affirmative. (Felix Arocho did not hold any license to sell alcoholic beverages and the premises were not licensed for that purpose.)

"The agent further testified that the agents found and seized about \$8.00 in the cash register and \$44.00 from the person of Felix Arocho, (including two one-dollar 'marked' bills used in payment by the agent for the beer and bread) five cans of beer in a refrigerator in the rear room, and a full bottle and a partly full bottle of whiskey in the grocery store proper, and the aforesaid furniture, fixtures, equipment, and stock of merchandise.

"Felix Arocho testified, through the aid of an interpreter, that he did not sell the beer to the agent on June 15th, but when the question was reframed, stated that the agent came into the grocery store, pleaded with Arocho that the latter should sell him some beer after he purchased some things; that Arocho told him he had no beer to sell, that thereupon the agent asked Arocho for 'two beers of mine', placed some foodstuffs on the counter, and since the agent was buying some things, and was insisting so much he told the agent he would give him two beers, and when the agent insisted upon more, he said he would not give him any more, and the agent again insisting, he gave him the six cans of beer; that the agent left two dollars on the counter, with his other purchases and walked away; that Arocho went after him to return the \$2.00, and as he reached the door, the agent turned around and flashed his badge. He did not offer to return the money, which he had placed in his pocket, 'to save it for the agent'.

"Octavia Arocho, daughter of Felix Arocho, testified that she witnessed her father hand two cans of beer to the agent, and when the agent insisted, her father obtained four more cans of beer and handed them to the agent as a gift, because the agent was 'rushing him so much'; that her father had a practice of giving beer to his customers.

"Norberto Rodriguez, who testified that Felix Arocho is his father, gave a vague and conflicting version of what occurred in an attempt to corroborate Octavia Arocho's testimony, adding that

his father's practice was to give beer to customers to drink on the premises but not to take out. Asked why his father permitted the agent to take the beer out of the grocery store, he replied because the agent was 'pushing'.

"The agent in rebuttal, testified that he did not use any pressure whatsoever, and that Felix Arocho did not follow him to the door, and when he reentered the store with the other officers, Felix Arocho was behind the counter and appeared to be surprised to see him.

"The preponderance of the believable evidence is that the agent's version described what actually occurred in the normal course of Felix Arocho's business and that there was no entrapment as urged by counsel for the claimant because in the language of State vs. Rosenberg, 37 N.J. Super 195, at page 205 '---the investigators acting on a reasonable belief that the law was being violated at this tavern simply provided encouragement and opportunity for Rosenberg to put into effect his existing criminal intent'. Furthermore, even assuming Felix Arocho's claim that he merely had a practice of serving beer to customers of his grocery store in the conduct of such business, it constitutes a sale of alcoholic beverages under R.S. 33:1-1(w). Re Seizure Case No. 8709, Bulletin 1046, Item 8; Re Seizure Case No. 9833, Bulletin 1343, Item 3.

"Upon the basis of the evidence presented I recommend a finding that the seized alcoholic beverages were intended for unlawful sale and hence are illicit. R.S. 33:1-1(i). Such illicit alcoholic beverages, and the furnishings, fixtures, equipment, and all other personal property seized in the establishment, including the cash, constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66. I further recommend that Felix Arocho's application for return of the deposit be denied, and instead an order be entered forfeiting the alcoholic beverages and the \$52.28 in cash, and that the deposit of \$500.00 likewise be forfeited and disposed of in accordance with law."

No exceptions were taken to the Hearer's Report within the time limited by Rule 4 of State Regulation No. 28.

After carefully considering the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and I adopt them as my conclusions herein.

Accordingly, it is on this 3rd day of January, 1961,

DETERMINED and ORDERED that the seized alcoholic beverages, described in Schedule "A" attached hereto, and \$52.28 in cash, constitute unlawful property and the same be and hereby are forfeited in accordance with the provisions of R.S. 33:1-66, and that such property 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; and it is further

DETERMINED and ORDERED that the balance of the seized property consisting of furnishings, fixtures, equipment and all other personal property, listed in the aforesaid Schedule "A", constitutes unlawful property, and that the sum of \$500.00, representing the retail value thereof, paid under protest to the Director of the Division of Alcoholic Beverage Control by Felix Arocho to obtain return of such articles, be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66, to be accounted for in accordance with law.

WILLIAM HOWE DAVIS
DIRECTOR

(See next page for Schedule)

SCHEDULE "A"

- 11 - cans of beer
 - 2 - quart bottles of whiskey
- The fixtures, furnishings and equipment in such store and the stock of merchandise as more specifically set forth in the inventory of the personal property seized, to which reference is made as if incorporated herein.
- \$52.28 in cash

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

In the Matter of Disciplinary Proceedings against)	
)	
Frank Ludwiczak)	CONCLUSIONS
575 Grove Street)	
Jersey City 2, New Jersey,)	AND
)	
Holder of Plenary Retail Consumption License C-63, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)	ORDER
)	

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 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 December 3, 1960, an ABC agent tested defendant's open stock of liquor and seized two bottles for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of one of said bottles (labeled "Lord Calvert Premium Blended Whiskey, 86 Proof") varied substantially in solids from the contents of a genuine bottle of the labeled brand.

The bartender who was present at the time of the seizure and the defendant deny any knowledge as to the violation. Nevertheless a licensee is responsible when alcoholic beverages not truly labeled are found on his licensed premises. Cedar Restaurant & Cafe Co. v. Hock, 135 N.J.L. 156.

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

Accordingly, it is, on this 9th day of January 1961,

ORDERED that plenary retail consumption license C-63, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Frank Ludwiczak, for premises 575 Grove Street, Jersey City, be and the same is hereby suspended for five (5) days, commencing at 2 a.m. Monday, January 16, 1961, and terminating at 2 a.m. Saturday, January 21, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against

Ruben Felzot
401 W. Broad Street
Palmyra, New Jersey

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-2, issued by the Mayor and Borough Council of the Borough of Palmyra.

ORDER

Worth and Worth, Esqs., by Herbert L. Worth, Esq., Attorneys 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 a charge alleging that on September 30, 1960 he sold, served and delivered and suffered the sale, service and delivery of alcoholic beverages to a 17-year-old minor, in violation of Rule 1 of State Regulation No. 20.

"At the hearing herein, the Division called Eugene ---, the minor in question; James ---, his minor companion, and an ABC agent who participated in the investigation.

"Eugene testified that 'pretty close to ten p.m.' on the evening of September 30, 1960, James stopped the car at defendant's licensed premises where he (Eugene) alighted and went into defendant's establishment; that he purchased two six-packs of Budweiser beer, paying \$2.50 to the barmaid (subsequently identified as Elizabeth Pinkett), who had made the sale of the beer to him; that Elizabeth Pinkett did not question him about his age or request him to produce any proof of same. Eugene further testified that he left the premises and, after a short wait, James drove up to where he was standing and that he got into the car and left.

"James corroborated the testimony of Eugene about driving him to defendant's tavern on the evening in question and testified that he observed Eugene walk up the steps leading to the entrance of defendant's establishment; that he (James) then drove the car 'around the block a couple of times' and next saw Eugene alongside of defendant's premises with a bag which contained 'two six-packs of beer, Budweiser'.

"An ABC investigator testified that during the investigation he and Eugene went to the home of Elizabeth Pinkett where Eugene identified her as the person who sold him the beer on September 30, 1960; that when he questioned Elizabeth Pinkett about serving Eugene, she stated she did not recall seeing him.

"Elizabeth Pinkett testified that she had never seen Eugene before he and the agent came to her home and had no recollection of selling beer to him.

"Captain McConnell of the Burlington County Prosecutor's office testified that he examined Elizabeth Pinkett before she submitted to a polygraph (lie detector) test and both before and

during the test she consistently stated she did not recall selling beer to Eugene.

"I have carefully considered all the testimony adduced herein and the argument of defendant's attorney. I find that, notwithstanding the exhaustive cross-examination of the Division's witnesses, their testimony remained unshaken and hence, I conclude that they gave an accurate and truthful account of what transpired in the matter. The fact that the barmaid truthfully testified that she could not recall the incident does not establish that the incident did not occur. Under the circumstances, I conclude that the Division has sustained the burden of proof of defendant's guilt by a fair preponderance of the believable evidence. Since the licensee cannot escape the consequences of the acts of his agents (Rule 33 of State Regulation No. 20), it is recommended that the defendant be adjudged guilty as charged. Cf. Re Campbell, Bulletin 1320, Item 10.

"Defendant has no prior adjudicated record. It is further recommended that an order be entered suspending defendant's license for twenty days, which is the minimum penalty imposed for sale of alcoholic beverages to a 17-year-old minor. Re Stefanski, Bulletin 1345, Item 7."

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

Having carefully considered the record herein, I concur in the Hearer's findings and conclusions and adopt his recommendations.

Accordingly, it is, on this 10th day of January 1961,

ORDERED that Plenary Retail Consumption License C-2, issued by the Mayor and Borough Council of the Borough of Palmyra to Ruben Felzot, for premises 401 W. Broad Street, Palmyra, be and the same is hereby suspended for twenty (20) days, commencing at 1:00 a.m., Tuesday, January 17, 1961 and terminating at 1:00 a.m., Monday, February 6, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against))

Anthony M. Jurvic)
434-436 Hackensack Street)
Carlstadt, N. J.)

CONCLUSIONS

AND

Holder of Plenary Retail Distribution License D-1, issued by the Mayor and Council of the Borough of Carlstadt.))

ORDER

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

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages, directly or indirectly, to a minor, in violation of Rule 1 of State Regulation No. 20.

Acting upon information transmitted to this Division by the Wood-Ridge Police Department, ABC agents obtained signed, sworn statements from Ronald ---, age 18 and his minor companion, Lawrence. Ronald states that on Wednesday evening, November 16, 1960, he and Lawrence drove to defendant's licensed premises and that he alone entered therein and purchased six cans of beer from the clerk who required no written proof of his age. He further states that he put the beer in the car and that he and Lawrence drove away and were later apprehended by the Wood-Ridge Police who seized the beer, none of which had been consumed.

Lawrence states that he saw Ronald enter defendant's licensed premises empty-handed and emerge therefrom carrying a bag containing six cans of beer which he put in the car and that the beer was seized when they were apprehended by the police. Both minors directed the agents to defendant's licensed premises and pointed it out as the place where the beer was obtained and Ronald identified therein John Palko (a part-time clerk) as the person who made the sale.

Defendant has a prior adjudicated record. Effective June 1, 1959 his license was suspended for five days by the local issuing authority for sale of alcoholic beverages to a minor. The minimum penalty imposed for an unaggravated sale of alcoholic beverages to an 18-year-old minor is a 15-day suspension. Re Eisenhower's Musical Bar, Inc., Bulletin 1357, Item 8. In view of the similar violation which occurred during the past five years, I shall suspend defendant's license for twenty-five days. Re E. F. Jenkins, Inc., Bulletin 1337, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 11th day of January 1961,

ORDERED that Plenary Retail Distribution License D-1, issued by the Mayor and Council of the Borough of Carlstadt to Anthony M. Jurvic, for premises 434-436 Hackensack Street, Carlstadt, be and the same is hereby suspended for twenty (20) days, commencing at 9:00 a.m., Wednesday, January 18, 1961 and terminating at 9:00 a.m., Tuesday, February 7, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD OF CORPORATION IN WHICH PRESIDENT OF DEFENDANT CORPORATION WAS AN OFFICER, DIRECTOR AND STOCKHOLDER - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Farmingdale Liquor Store, Inc. 85-87 Main Street Farmingdale, New Jersey Holder of Plenary Retail Distribution License D-1, issued by the Borough Council of the Borough of Farmingdale.

CONCLUSIONS AND ORDER

Samuel Moskowitz, Esq., Attorney for Defendant-licensee. Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold alcoholic beverages at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulation No. 30.

On October 21, 1960 an ABC agent visited defendant's licensed premises and told Jack A. Todres, secretary and treasurer of defendant-corporation, that he would purchase a case of whiskey if the price was right. Todres, after computing some figures on an adding machine, stated, "I'll tell you what I'll do. The price is \$57.48, but I'll give you 13 bottles for the same price". When the agent informed him that he wanted only the case of whiskey, Todres said, "OK I'll take the price of a bottle off the \$57.48". He then subtracted \$4.79 from the \$57.48 figure and quoted a price of \$52.69 saying, "Make it an even \$52.50". The agent agreed to take the case for that price and when Todres went to the stockroom, he signalled an agent who had remained outside to enter the premises. Todres emerged from the stockroom carrying a case of whiskey and placed it on the counter. The agent who had made the purchase said to Todres in the presence of the other agent, "That's \$53, right?" and Todres replied, "No, it's \$52.50". The agent then gave Todres \$53 in marked bills and received 50¢ in change. Todres rang up the sale and the agent carried the case outside. Returning immediately, he and the other agent identified themselves to Todres and informed him of the violation. Thereafter they seized for evidential purposes the marked bills, the adding machine computations and that portion of the cash register tape on which the sale was recorded. The minimum resale price then in effect for a case of fifths of Schenley whiskey with a 5 per cent allowable discount was \$54.61.

Defendant has no prior adjudicated record. However, Benjamin Todres, president, director and 36 per cent stockholder of defendant-licensee, was an officer, director and stockholder of Hamps, Inc. at 1718 Springwood Avenue, Neptune Township, which had its license twice suspended by the local issuing authority for five days and twenty-five days for after hours violations, effective January 7, 1957 and June 6, 1957 respectively. Said license was again suspended for sixty days by this Division for a like violation, effective February 17, 1958. Re Hamps, Inc., Bulletin 1212, Item 2. The minimum penalty for the violation charged herein is ten days.

Re Toms River Liquors, Inc., Bulletin 1362, Item 5. However, because the three prior convictions against Hamps, Inc. occurred within five years of the instant violation, an additional ten days will be imposed. I shall suspend defendant's license for a period of twenty days and remit five days for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 12th day of January, 1961,

ORDERED that Plenary Retail Distribution License D-1, issued by the Borough Council of the Borough of Farmingdale to Farmingdale Liquor Store, Inc., for premises 85-87 Main Street, Farmingdale, be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m., Thursday, January 19, 1961, and terminating at 9:00 a.m., Friday, February 3, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

AUTOMATIC SUSPENSION - PETITION TO LIFT GRANTED AT EXPIRATION OF SUSPENSION IN DISCIPLINARY PROCEEDINGS.

In the Matter of Disciplinary Proceedings against)

Cecelia Sivon)
t/a Sivon's Tavern)
654 Penn Street)
Perth Amboy, N. J.)

CONCLUSIONS

Holder of Plenary Retail Consumption License C-39, issued by the Board of Commissioners of the City of Perth Amboy.)

AND

ORDER

-----)

Auto Susp. #190)
In the Matter of the Automatic Suspension of License C-39, held by)

ORDER

Cecelia Sivon)
(same address))
-----)

Wilentz, Goldman, Spitzer & Sills, Esqs., by David T. Wilentz, Esq., Attorneys 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:

"You sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Eric ---, age 15, Helmut ---, age 16 and Mark ---, age 16, on November 12, 1960, and James ---, age 16, on November 11 and 12, 1960, and allowed, permitted and suffered the consumption of alco-

holic beverages by all said persons in and upon your licensed premises on the above stated respective dates; in violation of Rule 1 of State Regulation No. 20."

Acting upon information received from the Perth Amboy Police Department, ABC agents obtained sworn, written statements from Eric --- (age 15), Helmut --- (age 16) and Mark --- (age 16). From these statements and other sworn, written statements obtained by the local police from James --- (age 16), Eric and Helmut, it appears that on Saturday, November 12, 1960 at about 6:00 p.m., Helmut, Mark and James entered the defendant's licensed premises and consumed alcoholic beverages served to them by the licensee; that later the same night at about 9:30, Helmut accompanied by Eric, visited the licensed premises where each consumed a glass of beer served to them by the licensee and Helmut purchased a pint of whiskey from the licensee for off-premises consumption. It further appears from James' statement that on Friday night, November 11, 1960, he had visited the licensed premises and consumed two shots of whiskey and two glasses of beer served to him by the licensee. From the statements it also appears that on aforesaid visits to the licensed premises none of the minors was required to make any written representation of his age.

Thereafter, the four minors identified the licensed premises as the place where they were served and consumed the alcoholic beverages and pointed out the licensee as the bartender who sold and served the same as above outlined.

By way of mitigation, the attorneys for the defendant have submitted a statement which I have carefully read and considered. Licensee is a widow and has been operating the premises since her husband's death approximately nine years ago, during which time she has not been involved in any violations and hence, has no prior record. While admitting service to Eric, she has from the outset of these proceedings (when she originally pleaded guilty) denied sale or service to the other minors. I shall suspend the defendant's license for thirty-five days, the minimum penalty in a case of this kind. Re Backiel, Bulletin 1166, Item 4; Re Hafner, Bulletin 1139, Item 10. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

On December 30, 1960, the licensee was fined \$50 and costs in the Municipal Court of the City of Perth Amboy after she pleaded non vult to a charge of selling alcoholic beverages to said minors in violation of R. S. 33:1-77. Said conviction automatically suspends her license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of these proceedings, the license has not been picked up by ABC agents. Re Huetter, Bulletin 1305, Item 6. Under the circumstances, I shall, on my own motion, lift the automatic suspension upon the expiration of the suspension imposed in the disciplinary proceedings.

Accordingly, it is, on this 12th day of January 1961,

ORDERED that Plenary Retail Consumption License C-39, issued by the Board of Commissioners of the City of Perth Amboy to Cecelia Sivon, t/a Sivon's Tavern, for premises 654 Penn Street, Perth Amboy, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m., Thursday, January 19, 1961 and terminating at 2:00 a.m., Saturday, February 18, 1961; and it is further

ORDERED that the statutory automatic suspension of said license be lifted effective at 2:00 a.m., Saturday, February 18, 1961, at which time the license will be restored to full force and operation.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS AND FAILURE TO CLOSE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - SALE TO MINORS - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Cappy's Hideaway Inc.
t/a Cappy's Hideaway Inc.
208 W. Main Street
Bound Brook, New Jersey

Holder of Plenary Retail Consumption License C-8, issued by the Borough Council of the Borough of Bound Brook.

CONCLUSIONS

AND

ORDER

Samuel Chiaravalli, 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 Sunday, December 18, 1960, between 2:00 A.M. and 2:35 A.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 Ten (10) of an Ordinance adopted by the Mayor and Council of the Borough of Bound Brook on August 21, 1934 as amended December 29, 1939.
- "2. On Sunday, December 18, 1960, between 2:00 A.M. and 2:35 A.M. you failed to have your entire licensed premises closed; in violation of Section Ten (10) of an Ordinance adopted by the Mayor and Council of the Borough of Bound Brook on August 21, 1934 as amended December 29, 1939.
- "3. On Sunday, December 18, 1960, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Richard A. ---, age 19 and Richard J. ---, age 19, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

Two ABC agents entered defendant's premises at about 11:40 p.m. on Saturday, December 17, 1960, and remained on the premises until after 2 a.m., the closing hour on the following morning. Numerous patrons remained after the closing hour, and the bartender (Joseph Capawana, president of defendant corporation) continued to serve drinks to them. At about 2:22 a.m. each agent purchased a drink of alcoholic beverages from the bartender and observed that he had sold drinks shortly before that time to Richard A. --- and Richard J. --- who were at the bar. After the agents identified themselves, they obtained a written statement from Richard A. --- wherein he says that he is 19 years of age and that he had purchased a rye and soda which he consumed. The agents subsequently obtained a written statement from Richard J. --- wherein he says that he is 19 years of age and that he had purchased a whiskey and 7-Up which he consumed. Both minors stated that they had not been questioned as to age.

Defendant has no prior record. I have examined the letter submitted by defendant's attorney which sets forth alleged mitigating circumstances, but find nothing therein which would induce me to impose less than the usual suspension in cases of this kind. I shall suspend defendant's license for fifteen days on Charges 1 and 2 (Re Schlechtweg, Bulletin 1337, Item 4), and for an additional fifteen days on Charge 3 (Re Kirk, Bulletin 1300, Item 10). Five days will be remitted for the plea, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 12th day of January, 1961,

ORDERED that plenary retail consumption license C-8, issued by the Borough Council of the Borough of Bound Brook to Cappy's Hideaway Inc., t/a Cappy's Hideaway Inc., for premises 208 W. Main Street, Bound Brook, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m., Monday, January 23, 1961, and terminating at 2:00 a.m., Friday, February 17, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against
 Alfonso & Rocco Raimondi
 t/a Highlands Recreation Center
 103-107 Bay Avenue
 Highlands, N. J.
 Holders of Plenary Retail Consumption License C-25, issued by the Borough Council of the Borough of Highlands.

CONCLUSIONS

AND

ORDER

 Defendant-licensees, by Alfonso Raimondi, Partner.
 William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On November 28, 1960 an ABC agent tested defendants' open bottles of alcoholic beverages and seized a one-quart bottle labeled "Imported Canadian Club Blended Canadian Whiskey 90.4 Proof" for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of the bottle in question, when compared with the contents of a genuine bottle of the same brand, varied substantially in acids, solids and color.

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

Accordingly, it is, on this 23rd day of January 1961,

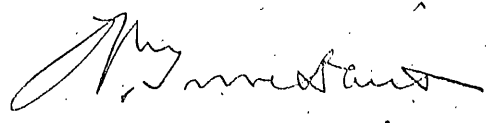
ORDERED that Plenary Retail Consumption License C-25 issued by the Borough Council of the Borough of Highlands to Alfonso & Rocco Raimondi, t/a Highlands Recreation Center, for premises 103-107 Bay Avenue, Highlands, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m., Monday, January 30, 1961 and terminating at 2:00 a.m., Saturday, February 4, 1961

WILLIAM HOWE DAVIS
DIRECTOR

12. STATE LICENSES - NEW APPLICATION FILED.

C. & E. Distributors, Inc.
855 Raymond Boulevard
Newark, N. J.

Application filed February 15, 1961 for place-to-place transfer of Limited Wholesale License WL-77 from 95 North Eleventh Street, Newark, New Jersey.



William Howe Davis
Director

New Jersey State Library