

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 1116

JUNE 12, 1956.

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STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 1116

JUNE 12, 1956.

1. APPELLATE DECISIONS - FESSLER v. ORANGE.

HENRY FESSLER, t/a HENRY )  
FESSLER'S COCKTAIL LOUNGE, )

Appellant, )

-vs- )

MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY )  
OF ORANGE, )

Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

-----  
Colalillo & Goldner, Esqs., by Sam E. Goldner, Esq., Attorneys  
for Appellant.  
Edmond J. Dwyer, Esq., Attorney for Respondent.

BY THE DIRECTOR:

Appellant appeals from respondent's action whereby it suspended his License C-68 for twenty days, effective at 2:00 a.m. November 1, 1955. The suspension was imposed after respondent found appellant herein guilty of a charge alleging that on September 10, 1955, he sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages at retail in original containers for consumption off the licensed premises after 10:00 p.m., in violation of Rule 1 of State Regulations No. 38. Appellant's premises are located at 568 Christopher Street, Orange.

Upon the filing of this appeal an order was entered by me on October 25, 1955, staying respondent's order of suspension until the entry of a further order herein. R. S. 33:1-31.

The petition of appeal alleges, in substance, that respondent's action was erroneous because its verdict of guilty was contrary to the weight of the evidence produced.

The testimony given at the hearing herein by the witnesses for both parties is in substantial agreement as to the following facts: At some time between 9:15 p.m. and 9:35 p.m. on the evening of September 10, 1955, "W", who was then and at the present time is an ABC agent, "P", who was then an ABC agent, and another man entered appellant's licensed premises, sat at the bar and were served drinks of beer and Fleischmann's whiskey by appellant's bartenders, Henderson and Tolliver. There is a serious dispute in the testimony given by the witnesses for both parties as to the events which occurred there-after on the licensed premises.

On behalf of respondent, "W" testified that, at 10:15 p.m., a patron entered and spoke to the licensee; that the licensee placed a carton on the bar, obtained about fifteen pint-bottles of wine from one of the bartenders, placed the bottles in the carton and, accompanied by the man, carried the carton out of the premises. He also testified that, at 10:25 p.m., another patron entered and asked bartender Tolliver for a bottle of "County Fair Bourbon;" that the bartender gave a bottle to the patron who placed the bottle in his pocket and left the premises. He further testified that, at 10:30 p.m.,

"P" asked bartender Henderson for a pint of Fleischmann's "to put on his hip because we were leaving;" that the bartender picked up a pint-bottle of Fleischmann's and "as he brought it towards us" he was breaking the seal on the bottle, "but there was a small portion left;" that, after paying the bartender, "P" and he left the premises with the bottle in "P's" possession and contacted another ABC agent who had remained outside; that the three ABC agents then reentered the premises and identified themselves to the licensee and the bartender. "P" substantially corroborated the aforesaid testimony and said that the strip on the Fleischmann bottle "was never completely broken." The third ABC agent testified that "W" and "P" came out of appellant's premises about 10:30 p.m. and that "P" showed him the bottle of Fleischmann's whiskey that he had purchased. He further testified that at that time the seal was taken off but that the bottle was full.

Appellant admitted that he sold a case of wine on the evening in question, but said "it was before ten o'clock definitely;" that he does not carry "County Fair" and that, prior to 10:00 p.m., he saw Henderson approach the agents, break the seal on a pint-bottle of Fleischmann's and immediately "put it up on the bar right in front of them." He said the agents left the premises "five or ten after ten." Tolliver testified that he did not see the agents leave the premises. Henderson testified that, prior to 10:00 p.m., one of the agents asked "Can we get a pint of Fleischmann's for a set-up;" that he got the bottle, took the seal off and set the bottle in front of the agents; that the agents thereafter remained on the premises five or six minutes, and that neither agent told him that they "wanted a pint to put on their hip to take out." Harold Buchanan, a patron, testified that he saw Henderson breaking the seal on the bottle "about four or five minutes to ten" and that he did not see the agents leaving the premises.

I have carefully considered all the evidence and the oral argument herein. The agents testified that, before entering, they had synchronized their watches and I shall accept as true their testimony that the three sales referred to by them were made after 10:00 p.m. There is no doubt in my mind that the sales made at 10:15 p.m. and 10:25 p.m. were sales in original containers for off-premises consumption. As to the sale made at 10:30 p.m. I conclude that, despite Henderson's attempt to break the seal, the bottle was still an "original container" and I believe the agents' testimony that Henderson was advised that the agent intended to take the bottle from the premises, as he subsequently did. Hence I conclude that the evidence is sufficient to sustain the finding of guilt. The action of respondent will be affirmed.

Accordingly, it is, on this 7th day of May, 1956,

ORDERED that the twenty-day suspension by respondent of Plenary Retail Consumption License C-68, held by Henry Fessler, t/a Henry Fessler's Cocktail Lounge, for premises 568 Christopher Street, Orange, be and the same is hereby restored and reimposed against said license, commencing at 2:00 a.m. May 15, 1956, and terminating at 2:00 a.m. June 4, 1956.

WILLIAM HOWE DAVIS  
Director.

2. STATE REGULATIONS - REGULATION NO. 34 WARNING TO RETAILERS AND SOLICITORS OF POSSIBLE ABRIGATION.

It has come to my attention that there is mounting pressure by some retailers upon solicitors for the furnishing of unlawful "deals" involving free goods, cash kick-backs and illegal price reductions.

If this pressure continues, weaklings will succumb. If they do, the retail industry will have demonstrated that it does not really want State Regulations Nos. 30 and 34, which in the interest of the retailers themselves prohibit discrimination in pricing by manufacturers and wholesalers among retailers. If that occurs, I will abrogate Regulations Nos. 30 and 34.

I am aware that abrogation of Regulations Nos. 30 and 34 will result in forcing many retailers out of business by reason of the unfair competition that will ensue, but if this happens, retailers will have only themselves to blame.

Furthermore, shortsighted retailers should remember that their acceptance of illegal "deals" will in all probability induce future violation of the alcoholic beverage regulations in an attempt to dispose of excessive inventory acquired not from need but from greed. Such violation will inevitably result in suspension or revocation of the license, with consequent loss of profit far greater than the gain from the illegal "deal."

So far as solicitors are concerned, their kick-backs to retailers not only jeopardize their own livelihood, but also may involve them in the income tax fraud perpetrated by the retailer who accepts kick-back cash and fails to report it as income and to pay tax upon it, even though the solicitor is paying his own tax.

Even if blind to the desirability of a clean market, solicitors who participate in illegal "deals" should remember that their permits may be cancelled by the Director in his sound discretion at any time without notice or assignment of reason or cause.

Retailers and solicitors -- think it over!

WILLIAM HOWE DAVIS  
Director.

Dated: May 15, 1956.

3. STATE LICENSES - IMPORTANT NOTICE TO HOLDERS OF W, WL, WW, R, VL, V AND SL LICENSES OF NEW RULING REGARDING FILING OF AFFIDAVITS BY LICENSED MANUFACTURERS AND WHOLESALERS OF ALCOHOLIC BEVERAGES (EXCEPT MALT ALCOHOLIC BEVERAGES) AND THEIR SOLICITORS, ENGAGED IN SALES TO WHOLESALERS OR RETAILERS, OR BOTH.

TO HOLDERS OF W, WL, WW, R, VL, V AND SL LICENSES:

In a final and positive determination to enforce compliance with the rules of State Regulation No. 34, pointed to the strict maintenance of an orderly market and to emphasize the obligation to comply with all other regulations of this Division, I specially rule that:

(1) Effective June 1, 1956, every licensed manufacturer and wholesaler of alcoholic beverages (except malt alcoholic beverages) engaged in the sale of alcoholic beverages to wholesalers or retailers, or both, shall execute and file with this Division on the said date an affidavit affirming that the licensee will not engage in practices violative of State Regulation No. 34 of the Division of Alcoholic Beverage Control or knowingly violate any other regulations of this Division during the balance of the fiscal licensing period ending June 30, 1956.

(2) Thereafter, every licensed manufacturer and wholesaler of alcoholic beverages (except malt alcoholic beverages) engaged in the sale of alcoholic beverages to wholesalers or retailers, or both, shall execute and file with this Division on the first day of every month, beginning with August 1, 1956, an affidavit affirming that the licensee has not engaged in practices violative of State Regulation No. 34 of the Division of Alcoholic Beverage Control or knowingly violated any other regulations of this Division during the month immediately preceding the filing of the affidavit.

(3) Effective June 1, 1956, every licensed manufacturer and wholesaler of alcoholic beverages (except malt alcoholic beverages) shall obtain an affidavit on that date from each holder of a solicitor's permit employed by such manufacturer or wholesaler affirming that the solicitor will not engage in practices violative of State Regulation No. 34 of the Division of Alcoholic Beverage Control or knowingly violate any other regulations of this Division during the balance of the fiscal licensing period ending June 30, 1956. Thereafter, every licensed manufacturer and wholesaler of alcoholic beverages (except malt alcoholic beverages) shall obtain, on the first day of every month beginning with August 1, 1956, an affidavit from each holder of a solicitor's permit employed by such manufacturer or wholesaler affirming that the solicitor has not engaged in practices violative of State Regulation No. 34 of the Division of Alcoholic Beverage Control or knowingly violated any other regulations of this Division during the month immediately preceding the filing of the affidavit.

The form of affidavit to be executed and filed on June 1, 1956 with the Division by licensed manufacturers and wholesalers is attached herewith as well as the prescribed form of affidavit to be executed and filed by them on the first day of every month beginning with August 1, 1956. It is to be noted that only the initial form of affidavit to be filed on June 1, 1956 is furnished by this Division. The subsequent monthly affidavits to be filed with the Division shall be prepared by manufacturers and wholesalers in accordance with the prescribed form herewith.

*W. J. ...  
the 1222-2*

Affidavits to be executed by holders of solicitor's permits and filed with their employers are to be maintained on licensed premises for inspection by agents of the Division of Alcoholic Beverage Control at all times. The initial affidavits on June 1, 1956 and subsequent monthly affidavits beginning with August 1, 1956 filed by solicitors must be prepared by licensees in accordance with the prescribed forms herewith.

Failure to comply with the provisions of this ruling will be punishable by suspension or revocation of license or solicitor's permit.

WILLIAM HOWE DAVIS  
Director.

Dated: May 15, 1956.

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } SS.

The undersigned, being duly sworn according to law upon his oath deposes and says:

1. I am: (check one)

(a)  The individual licensee appearing below;

(b)  A member of the partnership licensee appearing below;

(c)  The \_\_\_\_\_ of  
(President or Vice-President)  
the corporate licensee appearing below.

2. I do state and affirm, as a prerequisite to the consideration and approval of the renewal application of \_\_\_\_\_ for a

(Name of Licensee)

\_\_\_\_\_ for the fiscal

(Type of License)

period beginning July 1, 1956, that we will not engage in practices violative of the rules of State Regulation No. 34 or knowingly violate any other regulations of the Division of Alcoholic Beverage Control on and after the date hereof and through the balance of the fiscal licensing period ending June 30, 1956, and the said licensee will not suffer, allow or permit any agent, employee, or solicitor employed by it to engage in such unauthorized practices.

Sworn and subscribed to  
before me this first  
day of June, 1956.

\_\_\_\_\_  
Signature of officer administering  
oath

\_\_\_\_\_  
Title of such officer

(SPECIMEN FORM OF AFFIDAVIT TO BE FILED BY MANUFACTURERS AND WHOLESALERS WITH THE DIVISION ON THE FIRST DAY OF EVERY MONTH BEGINNING WITH AUGUST 1, 1956)

STATE OF }  
COUNTY OF } SS.

The undersigned, being duly sworn according to law upon his oath deposes and says:

- 1. I am: (check one)
  - (a)  The individual licensee appearing below;
  - (b)  A member of the partnership licensee appearing below;
  - (c)  The \_\_\_\_\_ of the  
(President or Vice-President  
corporate licensee appearing below.

2. I do state and affirm that \_\_\_\_\_  
(Name of Licensee)  
has not engaged in practices violative of the rules of State Regulation No. 34 or knowingly violated any other regulations of the Division of Alcoholic Beverage Control during the month of \_\_\_\_\_ and that the said licensee has not suffered, allowed or permitted any agent, employee or solicitor employed by it to engage in such unauthorized practices.

Sworn and subscribed to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 1956.

\_\_\_\_\_  
Signature of officer administering oath  
\_\_\_\_\_  
Title of such officer

(SPECIMEN FORM OF SOLICITOR'S AFFIDAVIT TO BE FILED WITH THEIR EMPLOYERS ON JUNE 1, 1956)

STATE OF }  
COUNTY OF } SS.

The undersigned, being duly sworn according to law upon his oath deposes and says:

1. I am the holder of a solicitor's permit issued by the Division of Alcoholic Beverage Control authorizing my employment by \_\_\_\_\_  
(Name of Employer)

2. I do state and affirm that I will not engage in practices violative of the rules of State Regulation No. 34 or knowingly violate any other regulations of the Division of Alcoholic Beverage Control on and after the date hereof and for the balance of the fiscal licensing period ending June 30, 1956.

Sworn and subscribed to before me  
this 1st day of June, 1956.

\_\_\_\_\_  
Signature of officer administering oath  
\_\_\_\_\_  
Title of such officer

(SPECIMEN FORM OF AFFIDAVIT TO BE FILED BY SOLICITORS WITH THEIR EMPLOYERS ON THE FIRST DAY OF EVERY MONTH BEGINNING WITH AUGUST 1, 1956)

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } SS.

The undersigned, being duly sworn according to law upon his oath deposes and says:

1. I am the holder of solicitor's permit issued by the Division of Alcoholic Beverage Control authorizing my employment by \_\_\_\_\_ (Name of Employer)

2. I do state and affirm that I have not engaged in practices violative of State Regulation No. 34 or knowingly violated any other regulations of the Division of Alcoholic Beverage Control during the month of \_\_\_\_\_.

Sworn and subscribed to before me the 1st day of \_\_\_\_\_ 1956.

\_\_\_\_\_  
Signature of officer administering oath  
\_\_\_\_\_  
Title of such officer

4. SOLICITORS' PERMITS - PERMIT CANCELLED FOR OFFERING KICK-BACK TO RETAILER AND MAKING FALSE STATEMENT DURING CONDUCT OF INVESTIGATION.

Mr. Sigmund Stobezki  
Paterson, N. J.

May 14, 1956

This is to advise you that effective this date, and pursuant to reserved power to cancel solicitors' permits in my absolute discretion at any time without notice or assignment of reason or cause, I have cancelled your Unlimited Solicitor's Permit No. 3200 expiring May 31, 1956, heretofore issued to you authorizing your employment as a solicitor by National Wine & Liquor Co., Inc., 19-37 Delaware Avenue, Passaic, holder of Plenary Wholesale License W-8, for cause, in that you offered to a retail licensee a cash rebate or kick-back of \$1.00 per case on a 25-case order of Schenley whiskey, and the making of a false statement under oath during the conduct of an investigation conducted by this Division.

Accordingly, you may not hereafter offer for sale or solicit orders for alcoholic beverages within the State of New Jersey for National Wine & Liquor Co., Inc. or any other manufacturer or wholesaler of alcoholic beverages.

Offering for sale and solicitation of orders for alcoholic beverages within the State of New Jersey in behalf of a manufacturer or wholesaler without solicitor's permit is prohibited by the Alcoholic Beverage Law and such offer for sale and solicitation without permit is declared by the Alcoholic Beverage Law to be a misdemeanor and cause for arrest, fine and imprisonment.

WILLIAM HOWE DAVIS  
Director.

5. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PRIOR RECORD -  
LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

HENRY DENNER )  
T/a PICCADILLY CLUB )  
1 Peshine Avenue )  
Newark 8, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-214, issued by the )  
Municipal Board of Alcoholic )  
Beverage Control of the City of )  
Newark. )  
----- )

Joseph A. D'Alessio, Esq., Attorney for Defendant-licensee.  
Dora P. Rothschild, appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold an alcoholic beverage in other than its original container for off-premises consumption, in violation of R. S. 33:1-2.

On March 6, 1956, at about 10:18 p.m., an ABC agent asked John Martin, who was then acting as bartender in defendant's licensed premises, for a pint of whiskey "to go". The bartender took a sealed pint bottle of whiskey from a showcase, broke the seal on the bottle with his knife and accepted payment for the bottle from the agent. The agent left the premises with the bottle, contacted a fellow agent and returned with him to the premises where the agents identified themselves to the bartender.

Defendant has a prior adjudicated record. Effective July 17, 1950, the local issuing authority suspended his license for ten days for an "hours" violation, and effective January 5, 1953, the local issuing authority suspended his license for fifteen days for an "hours" violation. The minimum suspension for selling in other than original container for off-premises consumption is fifteen days (Re Bunks, Bulletin 1075, Item 4). However, because of the prior dissimilar violation within the five-year period, I shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 30th day of April, 1956,

ORDERED that Plenary Retail Consumption License C-214, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Henry Denner, t/a Piccadilly Club, for premises 1 Peshine Avenue, Newark, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. May 7, 1956, and terminating at 2:00 a.m. May 22, 1956.

WILLIAM HOWE DAVIS  
Director.

6. DISCIPLINARY PROCEEDINGS - CONSUMPTION DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

STANLEY SALEK )  
T/a STAN'S BAR & GRILL )  
468 Broadway )  
Paterson, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-110, issued by the Board of Alcoholic Beverage Control for the City of Paterson. )

-----)  
Stanley V. Salek, Defendant-licensee, pro se.  
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that (1) he allowed the consumption of alcoholic beverages on his licensed premises during prohibited hours and (2) he failed to have his entire premises closed during prohibited hours, both in violation of a local ordinance.

The file herein discloses that on Sunday, March 18, 1956, each of two ABC agents consumed a glass of beer at the bar of defendant's licensed premises after 3:00 a.m., the local closing hour; that there were ten patrons at the bar when the agents departed at 3:10 a.m.; that at 3:35 a.m., the agents produced their credentials and were readmitted to the licensed premises; that six patrons and the licensee were then present; and that the licensee, who had been tending bar, refused to give a written statement to the agents respecting the aforesaid infractions.

Defendant has no prior adjudicated record. I shall suspend his license for a period of fifteen days. Re Dlugolencki, Bulletin 1068, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 30th day of April, 1956,

ORDERED that Plenary Retail Consumption License C-110, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Stanley Salek, t/a Stan's Bar & Grill, 468 Broadway, Paterson, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. May 7, 1956, and terminating at 3:00 a.m. May 17, 1956.

WILLIAM HOWE DAVIS  
Director.

7. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

STANLEY LATAWIEC )  
T/a BROUGHTON TAVERN & LIQUOR STORE )  
142-144 Broughton Avenue )  
Bloomfield, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Town Council of the Town of Bloomfield. )

-----  
Anthony Giuliano, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On April 11 and 12, 1956, you allowed, permitted and suffered gambling, viz., the making and accepting of horse-race bets in and upon the licensed premises; in violation of Rule 7 of State Regulations No. 20."

When ABC agents entered defendant's premises on the afternoon of April 11, 1956, the licensee and Edward D. Hall were tending bar. The agents observed a number of patrons passing money and slips to another patron identified as "Joe" and heard the licensee say, "five and five on this" when he handed a slip of paper to "Joe". The agents gave Hall six dollars to bet "across the board" on a horse and Hall asked the licensee, who was at the phone, to place the bet.

When the agents returned to the premises on the afternoon of April 12, 1956, they had marked money in their possession. The agents discussed their previous bet with Hall and each agent gave him six marked one-dollar bills and a piece of paper with the name of a horse thereon. Hall, after placing some of the money in his pocket, phoned in both bets "across the board". Other agents and local police officers then entered and found part of the marked money in Hall's possession.

Defendant has no prior record. Until recently, the minimum penalty of twenty days has been imposed for a first offense of the nature herein. Re Dakos, Bulletin 1095, Item 10. However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days. Since the instant case involves commercialized gambling which occurred after my announcement, I shall suspend defendant's license for twenty-five days and remit five days for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 1st day of May, 1956,

ORDERED that Plenary Retail Consumption License C-6, issued by the Town Council of the Town of Bloomfield to Stanley Latawiec, t/a Broughton Tavern & Liquor Store, for premises 142-144 Broughton Avenue, Bloomfield, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. May 8, 1956, and terminating at 2:00 a.m. May 28, 1956.

WILLIAM HOWE DAVIS  
Director.

8. DISCIPLINARY PROCEEDINGS - 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 )

TRIANGLE CORPORATION )  
1200-1202 Broadway )  
Camden, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-18, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden. )

----- )  
Joseph Wm. Cowgill, Esq., Attorney for Defendant-licensee. )  
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control. )

BY THE DIRECTOR:

Defendant has 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 Regulations No. 30.

The file herein discloses that on March 14, 1956, an ABC agent entered defendant's licensed premises and asked Jacob Levikoff, Secretary and Treasurer of defendant corporation, for a case of "Seagram 7." After a conversation about substituting other brands, Mr. Levikoff sold to the agent six 4/5 quart bottles of "Seagram's Seven 7 Crown Blended Whiskey" and six 4/5 quart bottles of "Calvert Reserve Blended Whiskey" for the total sum of \$45.00. The minimum consumer resale price then in effect for the items in question was \$51.19.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of ten days, and remit five days for the plea entered herein, leaving a net suspension of five days (Re Levine, Bulletin 1104, Item 8).

Accordingly, it is, on this 3rd day of May, 1956,

ORDERED that Plenary Retail Distribution License D-18, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Triangle Corporation, for premises 1200-1202 Broadway, Camden, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. May 7, 1956, and terminating at 9:00 a.m. May 12, 1956.

WILLIAM HOWE DAVIS  
Director.

9. AUTOMATIC SUSPENSION - LICENSE SUSPENDED BY DIRECTOR - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by  
Walter P. Hempel and Howard E.  
Baer to Lift the Automatic Sus-  
pension of Plenary Retail  
Consumption License C-4 issued  
by the Township Committee of the  
Township of Mansfield to

ON PETITION  
O R D E R

WALTER P. HEMPEL & HOWARD E. BAER )  
t/a MANSFIELD INN )  
Route #24, Beatystown )  
Mansfield Township )  
P. O. Hackettstown R.D. 1, N.J. )

-----  
Archie Roth, Esq., Attorney for Petitioners.

BY THE DIRECTOR:

It appears from a verified petition filed herein that, on April 27, 1956, Howard E. Baer was sentenced to pay a fine of \$500.00 and placed on probation for two years by a Judge of the Warren County Court after he had been found guilty by a jury of selling alcoholic beverages to a minor in violation of R. S. 33:1-77. Said conviction resulted in the automatic suspension of the license held by petitioners for the balance of its term. R. S. 33:1-31.1. The petition herein requests the lifting of said suspension.

By order dated January 18, 1956, the Director suspended the license held by petitioners for twenty-five days after finding them guilty in disciplinary proceedings of a charge alleging that they sold alcoholic beverages to the same minor. The suspension was effective from 2:00 a.m. January 26, 1956 to 2:00 a.m. February 20, 1956. Bulletin 1099, Item 1.

Since the suspension heretofore imposed is adequate, the relief sought herein will be granted.

Accordingly, it is, on this 30th day of April, 1956,

ORDERED that the automatic suspension of License C-4 held by Walter P. Hempel & Howard E. Baer, t/a Mansfield Inn; Route #24, Beatystown, Mansfield Township, be and the same is hereby lifted and said license is restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS  
Director.

10. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against )

MICHAEL A. NICAS )  
T/a COLONIAL INN )  
corner Main St. & Oceanport Ave. )  
Oceanport, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Mayor and Council of the Borough of Oceanport. )

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William K. Miller, Esq., Attorney for Defendant-licensee. )  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control. )

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On March 1, 1956, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Pvt. Leon ---, U. S. Army, age 18 and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing held herein Pvt. Leon --- testified that he is 18 years of age and that on March 1, 1956, at about 7:00 p.m., he and SP3 Samuel ---, both then wearing civilian clothes, entered defendant's licensed premises. He further testified that they went to the bar; that he ordered one glass of beer from a male bartender; that the bartender placed the glass of beer on the bar in front of him, and that he consumed the contents of the glass after paying 15¢ to the bartender for the drink. He also testified that SP3 Samuel ---, who is of full age, drank a glass of beer which had been purchased for him by PFC Clyde --- whom they had met at the bar.

SP3 Samuel --- (of full age) testified that he entered defendant's premises with Pvt. Leon --- on March 1, 1956, at about 7:00 p.m.; that he drank a glass of beer purchased for him by PFC Clyde; that Pvt. Leon --- ordered a glass of beer from the bartender and drank the beer which was served to him by the bartender. Both soldiers testified that they were in defendant's premises for approximately ten minutes.

The Division was unable to produce PFC Clyde --- at the hearing because he had been transferred by the military authorities to a point outside of New Jersey prior to the date set for hearing.

ABC agents testified that they accompanied the three soldiers to the licensed premises on the evening of March 10, 1956; that the soldiers identified the premises but were unable to identify either the licensee or the bartender, Edward Cleffi, as the person who had made the sale to Pvt. Leon ---.

On behalf of defendant, Michael A. Nicas, the licensee, and Edward Cleffi, who has been employed by him for approximately ten years, testified that they were the only persons tending bar

in the licensed premises on the evening of March 1, 1956, and that neither of the soldiers, who testified on behalf of the Division, was in the licensed premises on that evening. The licensee further testified that he charges 10¢ for a glass of beer and that he has never raised his price to 15¢. Sergeant Raymond --- testified that the reputation of defendant's premises is excellent and that the military authorities at Fort Monmouth, where the soldiers mentioned herein are stationed, have never complained as to the manner in which defendant's premises are operated.

After carefully considering the evidence herein, I conclude that the two soldiers who testified on behalf of the Division are telling the truth. The soldier who is of full age corroborated the testimony of the minor soldier as to the material fact that an alcoholic beverage was served to the minor on the licensed premises. The failure of the witnesses to identify the specific person who served the minor is not fatal in disciplinary proceedings against the licensee. Re Chessman, Bulletin 1082, Item 10, and cases therein cited. Even if the minor's testimony as to the price of the beer was incorrect, I do not believe that is a sufficient reason for disbelieving his testimony and the testimony of his companion that the beer was sold to and consumed by him. The testimony on behalf of defendant is of a negative character. After carefully considering all the evidence, I find defendant guilty as charged.

Defendant has a prior record. Effective October 31, 1949, the then Director suspended his license for five days for sale to minors (Re Nicas, Bulletin 858, Item 6). Until recently the usual penalty for sale of alcoholic beverages to an 18-year-old minor was a suspension for ten days (Re Bob's, Inc., Bulletin 1080, Item 1). On January 16, 1956, I announced that the penalty in such cases would be increased by five days. Since the violation herein occurred after that announcement and the prior similar violation occurred more than five years ago, I shall suspend defendant's license for twenty days.

Accordingly, it is, on this 2nd day of May, 1956,

ORDERED that Plenary Retail Consumption License C-1, issued by the Mayor and Council of the Borough of Oceanport to Michael A. Nicas, t/a Colonial Inn, for premises at corner Main Street & Oceanport Avenue, Oceanport, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. May 8, 1956, and terminating at 2:00 a.m. May 28, 1956.

WILLIAM HOWE DAVIS  
Director.

11. DISCIPLINARY PROCEEDINGS - SALE AT PREMISES OTHER THAN LICENSED PREMISES - TRANSPORTATION OF ALCOHOLIC BEVERAGES WITHOUT BONA FIDE INVOICES OR MANIFESTS - TRANSPORTATION IN VEHICLE NOT BEARING INSIGNIA IN VIOLATION OF RULE 2 OF STATE REGULATIONS NO. 17 - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

IVAN & JULIA KACZYCKIJ )  
T/a RIVIERA BAR & GRILL )  
Route 46 )  
Independence Township )  
PO RD Hackettstown, N. J., )

CONCLUSIONS AND ORDER

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Holders of Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Independence. )

Marcel E. Wagner, Esq., Attorney for Defendant-licensees.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charges:

"1. On or about October 27, 28, November 3 and 4, 1955 and on divers days prior to October 27, 1955, you sold alcoholic beverages not pursuant to and within the terms of your plenary retail consumption license as defined by R. S. 33:1-12(1), contrary to R. S. 33:1-26 and R. S. 33:1-1(w) in that you accepted orders for and sold numerous bottles of alcoholic beverages at a place other than your licensed premises, viz., at premises known as the farm of Marsh Morgan & Sons, 205 Warren Street, Hackettstown, New Jersey; in violation of R. S. 33:1-2.

"2. On the occasions aforesaid, you transported alcoholic beverages in a vehicle without the driver thereof having in his possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill, or similar document stating the bona fide name and address of the purchaser or consignee and the brand name or size of the container and the quantity of each item of alcoholic beverages being transported; in violation of Rule 3 of State Regulations No. 17.

"3. On the occasions aforesaid, you transported alcoholic beverages in a vehicle having no transportation insignia affixed thereto in accordance with Rule 11 of State Regulations No. 17; in violation of Rule 2 of State Regulations No. 17."

The facts constituting the basis for the charges filed herein are sufficiently set forth in the charges to obviate the necessity of further repetition. As to Charge 3, it appears that defendants obtained from this Division a transportation insignia but that the insignia was not attached to the vehicle.

The attorney for defendant-licensees in attempted mitigation of penalty to be imposed herein stated that "These

licensees are comparatively new operators and have not had enough time to become familiar with the exact limits of their licensing privilege. They are hard working people possessing a license in a rural area of our State where deliveries are a common practice but unfortunately for them, they were not familiar, as I said before, with the limits of their license".

Ignorance of the law or regulations affords no excuse. Licensees and their employees must know the rules and scrupulously adhere to them. Re Broodwinner, Bulletin 477, Item 3.

Defendants have no prior adjudicated record. On Charges 1 and 2 I shall suspend their license for fifteen days (Re Woznica, Bulletin 891, Item 8) and on Charge 3 for an additional five days (Re Colonna Park, Inc., Bulletin 875, Item 4), making a total suspension of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 30th day of April, 1956,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Independence to Ivan & Julia Kaczyckij, t/a Riviera Bar & Grill, Route 46, Independence Township, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. May 7, 1956, and terminating at 3:00 a.m. May 22, 1956.

WILLIAM HOWE DAVIS  
Director.

## 12. STATE LICENSES - NEW APPLICATIONS FILED.

Service Beverage Co.

641-649 Main St., Paterson, N.J.

Application filed June 11, 1956 for transfer of State Beverage Distributor's License SBD-96 from Max Green, t/a Service Bottling Works, 641-649 Main St., Paterson, N.J.

Louis C. and Mary Pisacane, t/a Pisacane Wine Co.

168-170 Lyon St., Paterson, N.J.

Application filed June 11, 1956 for transfer of Wine Wholesale License WW-33 from Mary, Ralph and Anthony F. Pisacane, t/a Pisacane Wine Co., 168-170 Lyon St., Paterson, N.J.

Publicker Distillers Products, Inc.

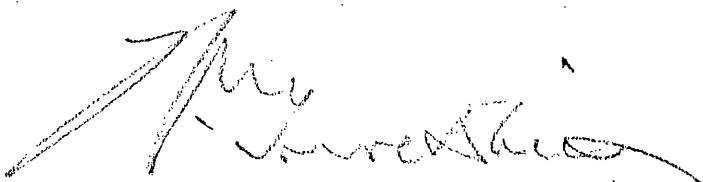
1429 Walnut St., Philadelphia, Pa.

Application filed June 12, 1956 for transfer of Plenary Wholesale License W-35 from Continental Distilling Sales Company, 1429 Walnut St., Philadelphia, Pa.

Mid-States Freight Lines, Inc.

400 Delancy St., Newark, N.J.

Application filed June 12, 1956 for transfer of Transportation License T-51 from 325 Spring Street, New York, New York.



William Howe Davis  
Director.