

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 5, N. J.

BULLETIN 1133

OCTOBER 8, 1956.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 5, N. J.

BULLETIN 1133

OCTOBER 8, 1956.

1. APPELLATE DECISIONS - THE FLORENCE METHODIST CHURCH ET ALS.
v. FLORENCE TOWNSHIP AND BONATZ.

THE FLORENCE METHODIST CHURCH,)
THE FIRST BAPTIST CHURCH OF)
FLORENCE,)
THE FIRST WESLEYAN METHODIST)
CHURCH OF FLORENCE,)

Appellants,)

-vs-)

THE TOWNSHIP COMMITTEE OF THE)
TOWNSHIP OF FLORENCE, and)
AUGUSTINE BONATZ,)

Respondents.)
-----)

ON APPEAL
ORDER FOR DISMISSAL

1. This is an appeal from the action of the Township Committee of the Township of Florence, Burlington County, New Jersey, in approving the transfer of Plenary Retail Consumption License No. C-7 for Gertrude Christy to Augustine Bonatz, for premises located at No. 1 Front and Broad Streets, Florence, New Jersey.

2. This matter has been scheduled for hearing on several occasions; however, the parties have resolved their differences and issues, inter alia, as follows:

(a) Augustine Bonatz, the licensee, has agreed to transfer Plenary Retail Consumption License No. C-7 from No. 1 Front and Broad Streets to another unrestricted location on or before August 1, 1957.

(b) Augustine Bonatz and Irene R. Bonatz, his wife, owners of the premises known as No. 1 Front Street and Broad Street, Florence, New Jersey, have agreed that on and after August 1, 1957, said premises shall be restricted against the use, storage, consumption and dispensation of alcoholic beverages.

(c) The appellants herein agree to withdraw their appeal in consideration of the transfer and restriction above.

3. It appearing further that good cause exists on the basis of the above premises,

It is, on this 4th day of September, 1956, ORDERED that the appeal herein be and the same is hereby dismissed.

(sd) Wm. Howe Davis

We hereby consent to the entry of the foregoing Order.

(sd) John E. Dimon
Dimon, Haines & Bunting,
Attorneys for the Appellants
By John E. Dimon

(sd) John S. Conroy, 3rd
JOHN S. CONROY, III
Attorney for Augustine Bonatz and Irene R. Bonatz

(sd) Martin J. Queenan
MARTIN J. QUEENAN
Solicitor for the Township Committee of the Township of Florence.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (FEMALE IMPERSONATORS - OBSCENE LANGUAGE AND CONDUCT) - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against)

RUTGERS COCKTAIL BAR, A CORP.)
29 Albany Street)
New Brunswick, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-85, issued by the Board of Commissioners of the City of New Brunswick.)
-----)

Eber & Eber, Esqs., by Alex Eber, Esq., Attorneys 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 November 18, December 3, 4, 16 and 17, 1955, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered female impersonators and persons who appeared to be homosexuals in and upon your licensed premises; allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises; and otherwise conducted your place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulations No. 20."

At the hearing herein, on application of the Division, any alleged violation occurring on December 17, 1955 was deleted from the aforementioned charge.

In support of the charges, three ABC agents testified with respect to investigations conducted at defendant's licensed premises on the dates in question (except December 17, 1955). The following is a summary of their testimony:

On the night of November 18, 1955 two of the agents entered defendant's licensed premises to investigate a specific complaint that the licensed premises was a "hangout for Lesbians and queers". At that time there were 15 apparent males and five apparent females upon the licensed premises. The agents testified that the apparent males spoke in high-pitched voices, walked in "a feminine manner, swaying their hips and making gestures with their hands", and handled their drinking glasses and cigarettes in an effeminate manner. They described the apparent females as being dressed in a mannish manner, men's dungarees and shirts, having short haircuts and wearing no makeup. Some of them wore wide men's belts with large buckles. One of these females, described as "chunky" and "heavy-set", was seated at a table with a blond-haired female called Cheryl and was seen to rub with her hand the latter's thigh and "privates". Shortly thereafter, Cheryl proceeded to the ladies' room, followed by the aforementioned female, where they remained for twenty-three minutes and then returned to their seats at the table where the same female again rubbed Cheryl's thigh and "privates" with her hand.

The agents further testified that when they returned to defendant's barroom on December 3, 1955, they again saw a number of males who were dressed and comported themselves in the same effeminate manner as had the patrons on their prior visit. They also testified that there were five females similarly garbed in mannish attire as on their previous visit, all being seated at a table. When two of these females left the licensed premises together one of the agents said to the bartender, "Looks like they're going out for a quickie." The bartender merely shrugged his shoulders and moved away from the agents. Shortly thereafter, one of the agents asked the bartender whether only "queers and Lesbians hang out" at the licensed premises, to which he replied, "I don't know, I'd like to find out myself." At one time during the evening, there were 30 apparent males and seven apparent females in the barroom and the agents testified that at least 70% of the males appeared to them to be homosexuals.

Two of the agents testified that, shortly after midnight on December 4, 1955, a woman and a man became involved in a violent argument, during the course of which each used filthy and indecent language (the repetition of the words used would serve no useful purpose); that the woman challenged the man to leave the licensed premises to engage in fisticuffs with her, which challenge he accepted; that a short time thereafter both the woman and the man returned to the licensed premises and continued the use of vile and indecent epithets toward each other; that, although the argument continued for some time on the first occasion and also for some time when the couple re-entered the premises, the bartender made no attempt to stop this sordid exhibition; and that the bartender engaged in conversation with the agents, during which time he remarked, "Well, he got himself into that, now let him get himself out of it."

All three agents testified with respect to their visit of December 16, 1955 and referred to the actions of the apparent male patrons as being effeminate in nature, particularly with respect to their gestures and the manner in which they touched each other's persons. When a man and woman left the premises together, the bartender volunteered to the agents that the woman would engage in sexual intercourse but denied, upon being questioned by one of the agents, that he had ever had intercourse with her. Continuing the conversation, one of the agents asked the bartender whether only "queers and Lesbians hang out" in the licensed premises and further asked whether the bartender had much trouble from the "fags and Lesbians". He replied, "No, I get more trouble from the straights." The agent then referred to his previous visit where two females remained in the ladies' room together for twenty-three minutes and implied that they apparently went there for unnatural sexual relations. The bartender replied, "What else?", and then stated that two women who used to frequent the premises always kept their hands under the table and he always wondered what they were doing. He further stated that some day he was going to find out why they stayed in the ladies' room for such a long period of time. When asked by one of the agents whether a man could "score with those broads" the bartender replied that it might be possible if the women came in alone but not if they came in together. One of the agents further asked the bartender how often "these Lesbians and queers come in", to which the bartender replied, "Oh, about four or five nights a week." At another time, in answer to a somewhat similar question, the bartender replied that he did not know, saying, "I don't pay much attention."

On behalf of defendant, the aforementioned bartender, the majority stockholder of defendant licensee corporation, a male patron, a female patron, a psychiatrist and a police officer appeared and testified.

With respect to the alleged foul language, the bartender testified that he had attempted to stop the argument during which such language was used. He denied that there was anything unusual in the conduct of the patrons. While he admitted that some of the female patrons wore men's trousers and shirts and had mannish haircuts, he said that he saw nothing wrong in that. With respect to the male patrons, he testified that "some swished, some wobbled, some walked quiet, some made a lot of noise." As to their manner of drinking, he testified that they looked to him like gentlemen, pretty well educated people, not "riffraff", and that the manner in which they drank was "very delicate." He denied any conversations with the agents with respect to "Lesbians and queers" and claimed that he did not even know the meaning of the words.

The majority stockholder testified that all of his patrons were decent people and, while he admitted that most of the female patrons wore dungarees instead of dresses, he denied permitting any immoral activity, female impersonators or persons who appeared to be homosexuals upon the licensed premises. He admitted, however, that he had no specific recollection of the dates in question.

The female patron (referred to as "chunky" and "heavy-set") testified that she is not a Lesbian and that she does not know any Lesbians who frequent defendant's licensed premises. She admitted that, when she goes to defendant's licensed premises, she wears men's pants and shirts and a man's watch. She further admitted the aforementioned argument and the use of the foul language, as hereinabove set forth. She denied that she had ever seen any female rubbing the thigh or "privates" of any other female upon the licensed premises but claimed that massaging tends to relieve discomfort which accompanies menstruation. She also testified that on one occasion she and three other females stayed in the ladies' room for a half-hour because one of them was ill.

A male patron testified that he is not a homosexual and denied that he was aware of any improper conduct or undesirable persons who frequent defendant's licensed premises.

A police officer testified that on his numerous visits to defendant's licensed premises he had not observed any objectionable persons or conduct.

The psychiatrist (who appears to be well qualified as such) testified that one cannot tell a homosexual merely by his appearance or actions. He further testified that homosexuals, both male and female, frequently have the appearance of normal members of their sex. He admitted, however, that some homosexuals affect the mannerisms of the opposite sex, but reiterated that the average homosexual has a deceptive appearance. When asked whether the appearance and conduct of defendant's patrons, as recounted by the agents, would not lead to the conclusion that these persons were homosexuals, he testified that he could not, on that basis, arrive at that conclusion.

The Hearer in this matter filed a report in which he stated that, while the actions and mannerisms of many of

defendant's patrons on the dates in question might arouse suspicion, such suspicion is not a substitute for the quantum of proof necessary for a finding of guilt, citing Re Doyle, Bulletin 469, Item 2; Re The Torch (A Corp.), Bulletin 945, Item 5, and Re Fireside Tavern, Inc., Bulletin 991, Item 5. He then recommended that defendant be found guilty only on that portion of the charge which alleged that it allowed, permitted and suffered foul, filthy and obscene language in and upon its licensed premises.

Thereafter, pursuant to Rule 6 of State Regulations No. 16, the prosecuting attorney in this matter filed exceptions and argument contending that, since the gravamen of the charge is nuisance, the testimony of the agents, unshaken by extensive cross-examination by counsel for defendant, left no doubt that many of the males were female impersonators and that they and a group of females who frequented the premises from their very actions appeared to be homosexuals. Accordingly, he contended that defendant should be found guilty on the entire charge, and proceeded to distinguish the cases cited by the Hearer.

Counsel for defendant filed exceptions and argument in which he stated that the Hearer's conclusions were supported by the preponderance of the uncontroverted evidence and were within the framework of the Director's decisions, and expressed disagreement with the prosecuting attorney's contention that the nuisance charge had been established in its entirety. He stressed certain isolated portions of the agents' testimony tending to indicate that the conduct of the patrons was not obnoxious, annoying or offensive and argued that, therefore, no nuisance had been established. He restated his position in oral argument before me.

I have carefully considered the entire record in this case, including the transcript of testimony, the Hearer's Report and the exceptions and arguments of counsel. Obviously, all of the testimony must be considered in its entirety and in context, not in segments, out of context.

I shall sustain the exceptions filed by the prosecuting attorney for the reason that, in my opinion, defendant's guilt on the basic nuisance charge has been established by a clear preponderance of the evidence. More specifically, while the record discloses that the only apparent overt acts of lewdness and immoral activity upon the licensed premises were committed by the above mentioned female patron, nevertheless it clearly appears that (1) a large percentage (approximately 70%) of the male patrons were obviously homosexuals as indicated by their appearance and actions, including their manner of speech, their walk, gestures and other mannerisms, and (2) some of defendant's female patrons "appeared to be homosexuals."

The congregating of so large a percentage of male patrons possessing the same general features, characteristics and mannerisms is more than mere coincidence and, notwithstanding the testimony of the learned psychiatrist that a layman could not tell a homosexual from a normal individual, I am satisfied from all of the evidence that the male persons in question were what are commonly termed "female impersonators." Female garb is not necessary for such a finding. Re Kaczka and Trobiano, Bulletin 1063, Item 1.

Proper liquor control, bearing in mind that our primary responsibility is to protect the public welfare, dictates that the congregating of female impersonators or homosexuals in large numbers on licensed premises be staunchly prohibited. The situation disclosed by the record in this case constitutes a nuisance and, as such, is a clear violation of Rule 5 of State Regulations No. 20 as alleged in the charge. To permit such persons to gather and congregate in large numbers on licensed premises is itself detrimental to the public welfare and tends to encourage them to carry on their unnatural practices. In addition, innocent members of the public frequenting such premises, by being exposed to these conditions, may well be adversely affected. Re Kaczka and Trobiano, supra.

I find defendant guilty of allowing, permitting and suffering its licensed place of business to be conducted in such manner as to become a nuisance, in violation of Rule 5 of State Regulations No. 20.

A liquor license is a mere privilege, Paul v. Gloucester County, 50 N.J.L. 585 (E. & A. 1888); Mazza v. Cavicchia, 15 N. J. 498 (1954) and, as Judge Freund, speaking for the Court in Benedetti v. Trenton, 35 N. J. Super. 30, 35 (1955), said:

"In the public interest, the right to prescribe the conditions under which intoxicants may be sold is practically limitless."

Judge Jayne, speaking for the Court in In re 17 Club, Inc., 26 N. J. Super. 43, 52 (App. Div. 1953), said:

"The governmental power extensively to supervise the conduct of the liquor business and to confine the conduct of that business to reputable licensees who will manage it in a reputable manner has uniformly been accorded broad and liberal judicial support."

As I have previously pointed out in Re Polka Club, Inc., Bulletin 1045, Item 6; Re Lloyd, Bulletin 1045, Item 7, and Re Kaczka and Trobiano, supra:

"...rigid enforcement of the regulations ..., is essential to the preservation of decency and the protection of the public morals ..."

and

"degradation and depravity which constitute so serious a threat to the public welfare and morals, will not be tolerated upon the licensed premises and ... such premises cannot be permitted to become havens for deviates or persons of low morality."

Defendant has no prior record. Under all of the circumstances in this case I shall suspend defendant's license for sixty days.

Accordingly, it is, on this 11th day of September, 1956,

ORDERED that Plenary Retail Consumption License C-85, issued by the Board of Commissioners of the City of New Brunswick to Rutgers Cocktail Bar, A Corp., for premises 29 Albany Street, New Brunswick, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 a.m. September 20, 1956, and terminating at 2:00 a.m. November 19, 1956.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - SALES TO MINORS - LICENSE SUSPENDED FOR 45 DAYS.

In the Matter of Disciplinary Proceedings against)

NICOLA CUTILLO & CAROLINE CUTILLO)
T/a Chris's Snack Bar & Grill)
#77 Route 46)
Lodi, N. J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-19 for the 1955-56 and 1956-57 licensing periods, issued by the Mayor and Council of the Borough of Lodi.)

Louis C. Jacobson, Esq., by M. Marvin Soperstein, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to the following charges:

"1. On Sunday, January 1, 1956, you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., cans of beer, at retail in their original containers for consumption off your licensed premises; in violation of Rule 1 of State Regulations No. 38.

"2. On Sunday, January 1, 1956, 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., Paul ---, age 14 and Gordon ---, age 20; in violation of Rule 1 of State Regulations No. 20."

At the hearing held in the instant case, Paul ---, 14 years of age, testified that sometime after 1:00 a.m. on January 1, 1956 Gordon --- drove him to defendants' licensed premises; that the premises in question are situated in back of a store and a restaurant, respectively; that he and Gordon entered the side door of the licensed premises and proceeded to the end of the bar; that Criscenzo (Chris) Cutillo (hereinafter referred to as Chris), son of the defendant-licensees, was seated on a box behind the bar and appeared to be "half asleep"; that at the time they entered there were about "three, maybe five" patrons in the tavern; that he informed Chris that Jerry Pavlik had sent them for the beer; that Chris "got up, he went to the freezer and took out twelve cans of beer and put them in two different bags" and placed the bags "on the pin ball machine"; that a woman whom he "thought" he heard Chris call Lee came from the restaurant, which was in darkness at the time, picked up the bags containing the beer, handed one bag to him and the other to Gordon; that he paid her \$2.00 and, thereupon, Chris escorted them through the grocery store, also in darkness, opened the front door thereof and permitted them to leave the building; and that neither he nor Gordon was questioned as to his age. Under cross-examination, Paul testified that Jerry Pavlik is related to the defendants and that some time after January 1, 1956 he and Jerry Pavlik's husband had an altercation but that nowise changed his feelings in any way toward the Cutillos.

The testimony of Gordon ---, 20 years of age, substantially corroborated that given by Paul with reference to the events which occurred in defendants' licensed premises at the time in question.

ABC Agent "M" testified that on March 23, 1956 Paul and Gordon directed him, Agent "Mc" and two municipal detectives to defendants' licensed premises; that when they entered the premises Nicola Cutillo, one of the defendants, was tending bar; that sometime later Chris came into the premises and Paul and Gordon identified him as the person who was tending bar on January 1, 1956; that Angelina Cutillo, wife of Chris, also came into the premises and the minors said that she was not the woman from whom they obtained the beer on the morning of January 1, 1956; that Chris stated he had closed the licensed premises at approximately 11:45 p.m. on December 31, 1955, reopened at 2:00 a.m. on January 1, 1956, and remained open until 4:00 a.m. that morning. He stated that he had received no telephone calls that morning and that he did not see either Paul or Gordon on the premises on the date in question. Chris further stated that he was tending bar and that his wife Lee is the only female who works around the premises.

Chris Cutillo testified that at about 11:45 p.m. on December 31, 1955 he closed the licensed premises and, after visiting his sister's home, reopened the licensed premises at 2:00 a.m. on January 1, 1956; that he tended bar until 4:00 a.m., during which time there were "about five or six people" in the premises; that he did not remember seeing Paul or Gordon in the place; and that the only woman he knew named Lee was his wife who was not on the premises at the time in question. Nicola Cutillo, one of the defendants, and Angelina Cutillo, wife of Chris, testified that they were not present in the licensed premises between midnight December 31, 1955 and 4:00 a.m. on January 1, 1956.

Andrew Sansone, a patron, testified that between 2:00 and 4:00 a.m. on January 1, 1956, he was in defendants' licensed premises but at no time did he see either of the minors in the establishment.

I have carefully examined all the testimony adduced herein and am satisfied that the minor and his companion described with reasonable accuracy the manner in which they obtained the twelve cans of beer at defendants' licensed premises on the morning of January 1, 1956. On March 23, 1956 Paul and Gordon directed the ABC agents and the municipal detectives to defendants' premises and when Chris entered the premises they identified him as the man who took the order for and placed the beer in the two bags. The fact that they did not identify the woman who actually delivered the bags containing the beer to them is not, in itself, fatal in disciplinary proceedings. See Re LaCorte, Bulletin 469, Item 1; Re Dante, Bulletin 771, Item 9. There appears to be no reason why the minors should have deliberately given false testimony. Paul testified that although he did have an altercation with Jerry Pavlik's husband after the date in question he did not hold any animosity toward the Cutillos. On the other hand, Chris's testimony appears to be contradictory, evasive and uncertain, especially so with reference to his prior acquaintance with Paul. I conclude that the minors obtained the twelve cans of beer at defendants' licensed premises on January 1, 1956, in accordance with the testimony given by them at the within hearing. Therefore, I find defendants guilty of the charges preferred herein.

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

Although I find the defendants guilty of the violations set forth in the charges, I note that the Hearer in his report with reference to Charge 2 inadvertently stated that the said violation occurred subsequent to my announcement on January 16, 1956 of the Increased Penalties (Bulletin 1095, Item 1) and by reason thereof increased the suspension to be imposed herein by five days. The fact is that the said violation occurred prior to the announcement of the increase in penalties. In the absence of a prior adjudicated record, I shall suspend defendants' license for fifteen days on Charge 1 (Re Garcia, Bulletin 1102, Item 12) and for an additional thirty days on Charge 2 (Re Lapadula, Bulletin 1035, Item 3), making a total suspension of defendants' license for a period of forty-five days.

Accordingly, it is, on this 11th day of September, 1956,

ORDERED that Plenary Retail Consumption License C-19, issued for the 1956-57 licensing period by the Mayor and Council of the Borough of Lodi to Nicola Cutillo & Carolina Cutillo, t/a Chris's Snack Bar & Grill, #77 Route 46, Lodi, be and the same is hereby suspended for a period of forty-five (45) days, commencing at 3:00 a.m. September 19, 1956, and terminating at 3:00 a.m. November 3, 1956.

WILLIAM HOWE DAVIS
Director.

- 4. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATIONS - SALE ON OTHER THAN LICENSED PREMISES - STORAGE OF ALCOHOLIC BEVERAGES ON OTHER THAN LICENSED PREMISES - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
 DOMIANO NOCERO and LOUIS CASTALDO)
 353 Anderson Avenue)
 Fairview, N. J.,) CONCLUSIONS AND ORDER

 Holders of Plenary Retail Consumption License C-24, issued by the Mayor and Council of the Borough of Fairview.)

 Domiano Nocero and Louis Castaldo, Defendant-licensees, by Louis Castaldo.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

- "1. On Sunday, May 20, 1956 between 10:30 a.m. and 11:45 a.m., you sold, served, delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages; in violation of a Resolution adopted by the Mayor and Council of the Borough of Fairview on November 15, 1938.

"2. On Sunday, May 20, 1956 between 10:30 a.m. and 11:45 a.m., 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 drinks of alcoholic beverages in an unlicensed room adjacent to your licensed premises; in violation of R. S. 33:1-2.

"3. On Monday, May 28, 1956, you stored alcoholic beverages at a place other than your licensed premises or a licensed public warehouse or pursuant to special permit, viz., in a room adjacent to your licensed premises; in violation of Rule 25 of State Regulations No. 20."

The file herein discloses that at about 11:35 a.m. on Sunday, May 20, 1956, an ABC agent was permitted by Louis Castaldo, one of the defendant-licensees herein, to enter a room to the rear of the barroom and was there served a glass of beer by Domiano Nocero, the other defendant-licensee. A few minutes thereafter another agent entered the rear room, sat at a table with his fellow agent, ordered and was sold a shot of whiskey and a glass of beer by the same licensee. At the time the agents were served in the defendants' premises, there were other patrons seated at tables consuming alcoholic beverages. The room in which the service of alcoholic beverages was made was not part of the defendants' licensed premises.

On May 28, 1956, during an inspection of defendants' premises, an ABC agent found various cases of wine and beer stored in a room adjoining the rear room aforementioned and there also were various assorted bottles of liquor on shelves in a closet located in said room. This room and the closet therein did not comprise part of the licensed premises.

Defendants have no prior adjudicated record. In addition to the sales of alcoholic beverages during prohibited hours, the sale of alcoholic beverages on unlicensed premises constitutes a very serious violation. I shall suspend defendants' license for forty-five days, less five days for the plea entered herein, leaving a net suspension of forty days. Re Gondolf, Bulletin 804, Item 9.

Accordingly, it is, on this 12th day of September, 1956,

ORDERED that Plenary Retail Consumption License C-24, issued by the Mayor and Council of the Borough of Fairview to Domiano Nocero and Louis Castaldo, 353 Anderson Avenue, Fairview, be and the same is hereby suspended for forty (40) days, commencing at 3:00 a.m. September 19, 1956, and terminating at 3:00 a.m. October 29, 1956.

WILLIAM HOWE DAVIS
Director.

- 5. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATIONS - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

PETER GARDIANOS)
 455 Jackson Avenue)
 Jersey City 4, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-89, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

 Peter Gardianos, 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) on Sunday, July 22, 1956, he sold alcoholic beverages in an original container for off-premises consumption, in violation of Rule 1 of State Regulations No. 38; and (2) on said date he sold said beverages during prohibited hours, in violation of a local regulation.

The file herein discloses that at about 10:15 a.m., Sunday, July 22, 1956, an ABC agent purchased from the licensee herein a pint bottle of whiskey for off-premises consumption. The local regulation prohibits the sale of alcoholic beverages between the hours of 2:00 a.m. and 1:00 p.m. on Sunday, and State Regulations No. 38 prohibits the sale on Sundays of said beverages in original containers for off-premises consumption.

Defendant has a prior adjudicated record. Effective May 16, 1955, his license was suspended for a net period of ten days by this Division for an "hours" violation. Re Gardianos, Bulletin 1065, Item 5. The minimum penalty imposed for violations as charged herein is a suspension of the license for twenty days. Re Reimer, Bulletin 1075, Item 5. However, because of the prior similar violation of State Regulations No. 38, I shall suspend defendant's license for thirty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 10th day of September, 1956,

ORDERED that Plenary Retail Distribution License D-89, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Peter Gardianos, 455 Jackson Avenue, Jersey City, be and the same is hereby suspended for a period of thirty (30) days, commencing at 9:00 a.m. September 17, 1956, and terminating at 9:00 a.m. October 17, 1956.

WILLIAM HOWE DAVIS
 Director.

6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JOHN ENDRE & JOHN RINALDI)
T/a REX TAVERN)
W/S Fort Dix Street)
Wrightstown, N. J.,)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consump-)
tion License C-1, issued by the)
Borough Council of the Borough of)
Wrightstown.)

John Endre & John Rinaldi, Defendant-licensees, by John Endre.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging
that they sold, served and delivered alcoholic beverages to a
minor and permitted the consumption of such beverages by said
minor in and upon their licensed premises, in violation of
Rule 1 of State Regulations No. 20.

The file herein discloses that an ABC agent acting upon
information transmitted to this Division by the Fort Dix
Military Police, obtained signed sworn statements from James
---, age 18, a private in the U. S. Army and from his adult
companion respecting the violation charged. James stated that
at about 7:30 p.m., Sunday, July 22, 1956, he and his companion
visited defendants' licensed premises wherein he consumed two
glasses of beer, one of which was served by the bartender to
whom he showed his I. D. Card and the other by a barmaid who
made no inquiry as to his age. The adult, in his statement,
verified the aforesaid facts and he and James, in the presence
of the agent, identified the dispensers of the beverages.

Defendants have no prior adjudicated record. Prior to
January 16, 1956, the minimum penalty imposed for an unaggra-
vated sale of alcoholic beverages to an 18-year-old minor
was ten days. Re Bob's Inc., Bulletin 1080, Item 1. Since my
announcement on that date, the penalty has been increased.
Re Increased Penalties, Bulletin 1095, Item 1. I shall sus-
pend defendants' license for fifteen days and remit five days
for the plea entered herein, leaving a net suspension of ten
days.

Accordingly, it is, on this 4th day of September, 1956,

ORDERED that Plenary Retail Consumption License C-1,
issued by the Borough Council of the Borough of Wrightstown to
John Endre & John Rinaldi, t/a Rex Tavern, W/S Fort Dix Street,
Wrightstown, be and the same is hereby suspended for a period
of ten (10) days, commencing at 2:00 a.m. September 10, 1956,
and terminating at 2:00 a.m. September 20, 1956.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN W. CAMPBELL)
T/a JACK'S TAVERN)
150 Rochelle Avenue)
Rochelle Park, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Rochelle Park.)

Herbert F. Myers, Jr., Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to a minor and permitted the consumption of an alcoholic beverage by said minor in and upon his licensed premises; in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that ABC agents, acting upon information transmitted to this Division by the Rochelle Park Police Department, obtained a signed sworn statement from William --- (age 16) in which he states that, shortly after 11:00 p.m. July 30, 1956, he and three youthful companions drove to defendant's licensed premises wherein he purchased a glass of beer and two quart-containers of beer from the licensee who made no inquiry as to his age. He stated further that he consumed the glass of beer on the licensed premises, left the tavern with his other purchase and was apprehended by the police. Two of William's companions gave signed sworn statements -- one stating he saw William enter the tavern empty-handed, the other stating that he saw William emerge from the tavern carrying containers of beer. Later William and his companions directed the agents to defendant's tavern which they pointed out as the place where the alcoholic beverages were obtained, and therein William identified the licensee as the person who made the sale.

Defendant has no prior adjudicated record. The minimum penalty heretofore imposed for an unaggravated sale of alcoholic beverages to a sixteen-year-old minor was twenty days (Re Mrozowicz, Bulletin 1085, Item 4). However, on January 16, 1956, I announced in Re Increased Penalties, Bulletin 1095, Item 1, that the penalty in such cases would be increased by five days. Since the violation herein occurred after that date 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 5th day of September, 1956,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Rochelle Park to John W. Campbell, t/a Jack's Tavern, for premises 150 Rochelle Avenue, Rochelle Park, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. September 11, 1956, and terminating at 3:00 a.m. October 1, 1956.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against NORDCO, INC. 213 Court Street Newark 3, N. J., Holder of Plenary Retail Consumption License C-942, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS AND ORDER

Jerome B. Litvak, Esq., Attorney for Defendant-licensee. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold an alcoholic beverage at retail in its original container for consumption off its licensed premises, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that at 2:50 p.m. on Sunday, July 10, 1955, an ABC agent purchased from Ben F. Norden, vice-president of defendant corporate licensee, a pint bottle of Schenley whiskey in its original container for off-premises consumption. The agent who purchased the whiskey and a fellow agent left defendant's premises but returned immediately thereafter and identified themselves to the officer of defendant who had made the sale.

Defendant has a prior adjudicated record. Its license was suspended by the local issuing authority for twenty days, effective January 3, 1955, for permitting a brawl on the licensed premises. The minimum suspension for a violation of the character set forth herein is fifteen days. Re Langer and Bershaw, Bulletin 907, Item 5. Taking into consideration the dissimilar prior record which occurred within five years, I shall suspend defendant's license for a period of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of the license for fifteen days.

Accordingly, it is, on this 8th day of May, 1956,

ORDERED that Plenary Retail Consumption License C-942, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Nordco, Inc., 213 Court Street, Newark, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. May 14, 1956, and terminating at 2:00 a.m. May 29, 1956.

WILLIAM HOWE DAVIS Director.

9. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 THOMAS G. & JEANNETTE C. PENNINGTON
 T/a THE RIVERSIDE
 Route #46, near Townsbury
 Liberty Township
 PO RD #1, Oxford, N. J.,

CONCLUSIONS AND ORDER

 Holders of Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Liberty.

Mackerley & Friedman, Esqs., by Peter Friedman, Esq., Attorneys for Defendant-licensees.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that on May 19 and 20, 1956 and on divers days prior thereto, they sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to a minor and permitted said minor to consume such beverages in and upon their licensed premises, in violation of Rule 1 of State Regulations No. 20.

ABC agents obtained a signed sworn statement from George Norman ---, age 19, wherein it appears that he visited defendants' licensed premises for the first time some time in February 1956 and thereafter was at the premises on various Saturday nights, the last such occasion being about two weeks prior to May 29, 1956, and, in total, he made about five such visits; that on all occasions except one he drank glasses or bottles of beer and that he was never questioned as to his age and was never required to make any written representation thereof; that, accompanied by ABC agents, he identified the defendants' premises as the place where he had been served said beer.

At the time such identification was made, the above ABC agents questioned Thomas Pennington, one of the licensees, who told them that George commenced to frequent the premises about 2 1/2 months prior to May 29, 1956, and had been there in total three to five times; that on the first occasion he questioned George about his age because George appeared to be a "borderline case" to him; that George asserted that he was of age and displayed a driver's license (George, in his statement, denied that such was the fact) which indicated that George was born in 1934 and, accordingly, he made no further inquiry into George's age and did not require him to make a written representation thereof; that on each occasion, he served George either glasses or bottles of beer and that the last occasion when George was in the premises was on Saturday, May 19, 1956, at about 10:00 p.m. and remained there until about 2:00 a.m. May 20, 1956, during which time George was served with a bottle or bottles of beer which he consumed.

Defendant has no prior adjudicated record. The minimum penalty for sale of alcoholic beverages to a nineteen-year-old minor, subsequent to January 16, 1956, is fifteen days.
Re Mercantini & Rossi, Bulletin 1124, Item 12. I shall suspend

defendants' license for fifteen days and remit five days for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 5th day of September, 1956,

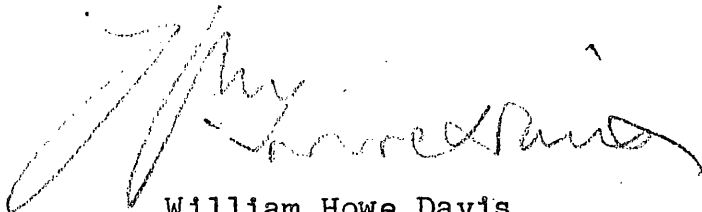
ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Liberty to Thomas G. & Jeannette C. Pennington, t/a The Riverside, Route #46, near Townsbury, Liberty Township, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. September 11, 1956, and terminating at 3:00 a.m. September 21, 1956.

WILLIAM HOWE DAVIS
Director.

10. STATE LICENSES - NEW APPLICATION FILED.

Boston & Springfield Despatch, Inc.
137 Harvard Avenue
Stamford, Connecticut.

Application filed October 1, 1956 for person-to-person transfer of Transportation License T-126 from M. & L. Motor Lines, Incorporated, 137 Harvard Avenue, Stamford, Connecticut.



William Howe Davis
Director.