

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 1, N. J.

BULLETIN 1121

July 12, 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.

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BULLETIN 1121

1. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED
IN MINIMUM CONSUMER RESALE PRICE LIST - CHARGE ALLEGING
AIDING AND ABETTING TRANSPORTATION OF ALCOHOLIC BEVERAGES,
DISMISSED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

TRANSFER LIQUORS, INC.)
708 Hudson Boulevard)
Union City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-97, issued by the)
Board of Commissioners of the City)
of Union City.)

Cyril J. McCauley, 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 charges alleging that (1) and (2) 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, and (3) knowingly aided and abetted the transportation of such alcoholic beverages by persons who held no license or permit therefor contrary to R. S. 33:1-2; in violation of R. S. 33:1-52.

The file herein discloses that, according to the licensee's records, on December 12, 1955 it sold to Ralph Horgan, Inc. of 1842 Broadway, New York City, fifteen cases totaling 180 - 4/5 quart and quart bottles of various brands of whiskey for a total price of \$961.63 and allowed the purchaser a discount of \$100.00, receiving a net amount of \$861.63; that on December 22, 1955, it sold to Hot Rods, Inc. of 220 West 42nd Street, New York City, eighteen 4/5 quart and quart bottles of eight brands of alcoholic beverages (five bottles being the largest amount of any one brand) for a total price of \$106.14 and allowed the purchaser a 10% discount, receiving a net amount of \$95.53. Edward Miltner, president of the corporate licensee, admitted that the above sales of alcoholic beverages had been made for the amounts stated.

Ralph Horgan informed ABC agents that he had purchased the fifteen cases of whiskey and sent a motor vehicle to the licensed premises to transport such whiskey to New York City. ABC agents developed that the eighteen bottles of alcoholic beverages invoiced to Hot Rods, Inc. and paid for by its check had been ordered by Morgan Hughes who had some connection with the company. Hughes, who resides in New Jersey, claimed that the alcoholic beverages were for his own personal use and that one of his men had picked up the alcoholic beverages at the licensed premises.

The licensee was not permitted to give any discount on the purchase of the eighteen assorted bottles of alcoholic beverages. Re Weston, Bulletin 343, Item 10; Re Levin, Bulletin 866, Item 1. The permissive discount then in effect on the purchase of the fifteen cases of whiskey was 5% or \$48.08, and

The transportation of the fifteen cases of whiskey from the licensed premises in Horgan's motor vehicle for delivery in New York City without a requisite license or permit was in violation of the provisions of R. S. 33:1-2. When submitting the licensee's non vult plea, its counsel nevertheless represented that such licensee did not feel that it had aided and abetted such unlawful transportation, but entered such plea in order to have the advantage of the five-day remission on whatever penalty may be imposed. In other words, it did not dispute the facts developed by the Division, but their legal effect. After a careful review of the investigators' reports in this connection, I agree that there is a lack of probative proof establishing the truth of such charge. The most that appears from the facts in such reports are two conflicting inferences of equal weight. Under the circumstances, and despite the plea, fairness dictates that this charge be dismissed.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of twenty-five days on Charges 1 and 2 because both sales amount to over sixteen cases of alcoholic beverages, which is a substantial quantity. Re McCarthy et al., Bulletin 1059, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 24th day of May, 1956,

ORDERED that Plenary Retail Consumption License C-97, issued by the Board of Commissioners of the City of Union City to Transfer Liquors, Inc., 708 Hudson Boulevard, Union City, be and the same is hereby suspended for a period of twenty (20) days, commencing at 3:00 a.m. June 5, 1956, and terminating at 3:00 a.m. June 25, 1956.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - ORDER FIXING EFFECTIVE DATE OF SUSPENSION AFTER LICENSEE RESUMED BUSINESS.

In the Matter of Disciplinary Proceedings against
 RAINBOW CAFE, A CORP.
 T/a RAINBOW CAFE
 N/E Cor. Spicer & Pacific Aves.
 Wildwood, N. J.,
 Holder of Plenary Retail Consumption License C-29, issued by the Board of Commissioners of the City of Wildwood.

O R D E R

 George M. James, Esq. and Paul M. Salsburg, Esq., Co-Counsel,
 Attorneys for Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

It appearing that by order dated September 29, 1955, the license held by the above named defendant was suspended for five days, and that the effective dates of said suspension were to be fixed by subsequent order (Re Rainbow Cafe, A Corp., Bulletin 1085, Item 6); and

It further appearing to my satisfaction that defendant's premises have now been reopened for business;

It is, on this 24th day of May, 1956,

ORDERED that the five-day suspension heretofore imposed shall commence at 3:00 a.m. June 11, 1956, and terminate at 3:00 a.m. June 16, 1956.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
FRANCIS SHEA)
T/a IDEAL TAVERN)
40 Newark-Pompton Turnpike)
Pequannock, N. J.,)
Holder of Plenary Retail Consumption License C-4, issued by the Township Committee of Pequannock Township.)

CONCLUSIONS
AND ORDER

Francis Shea, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that (1) he sold, served and delivered alcoholic beverages to a minor and permitted the consumption of such beverages by said minor in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20; and (2) he sold and delivered alcoholic beverages in their original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that ABC agents obtained a signed sworn statement from Harry --- (age 20) in which he states that at about 7:00 p.m., Sunday, April 22, 1956, he and two youthful companions arrived by car in the vicinity of defendant's licensed premises; that he alone entered the tavern and purchased a glass of beer which he consumed at the bar and departed with three quart bottles of the same beverage; that after he and his two companions consumed the bottled beer, they returned between 9:00 and 10:00 p.m. with another youth to defendant's tavern which he again entered alone; that he consumed a glass of beer and left with six more quart bottles of the same beverage which he shared with his waiting companions who had contributed toward the purchase price. He further stated that the bartender who served him the alcoholic beverages made no inquiry as to his age. The three minors who accompanied Harry gave the agents signed sworn statements verifying the fact that Harry carried from defendant's tavern the bottles of beer which they all consumed. Later Harry directed the agents to the licensed premises herein which he pointed out as the tavern wherein he had been served the alcoholic beverages and therein identified the bartender who had served him.

Defendant has a prior adjudicated record. Effective January 5, 1948, his license was suspended for three days by the local issuing authority for an "hours" violation. This previous dissimilar violation which occurred more than five years ago will not be considered in fixing the penalty herein. Re Buratte, Bulletin 1097, Item 1. The usual penalty heretofore imposed for an unaggravated sale of intoxicating beverages to a twenty-year-old minor was ten days. Re Santa Lucia Restaurant, Inc., Bulletin 1095, Item 12. However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days. Re Increased Penalties, Bulletin 1095, Item 1. Since the violation in the instant case occurred after that announcement and is aggravated by the quantity of alcoholic beverages sold to the minor, I shall suspend defendant's license for a period of twenty days on Charge 1 (cf. Re Ciruolo, Bulletin 1103, Item 7), and an additional fifteen days on Charge 2 (Re Cahill, Jr., Bulletin 1102, Item 3), making a total suspension of 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 24th day of May, 1956,

ORDERED that Plenary Retail Consumption License C-4, issued by the Township Committee of Pequannock Township to Francis Shea, t/a Ideal Tavern, 40 Newark-Pompton Turnpike, Pequannock, be and the same is hereby suspended for a period of thirty (30) days, commencing at 2:00 a.m. June 1, 1956, and terminating at the expiration of the term of the license at midnight, June 30, 1956.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JEANNE PODURGEL, ADM. OF)
ESTATE OF WACLAW LIPKA)
384 Grove Street)
Jersey City 2, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-272, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Jeanne Podurgel, Adm. of Estate of Waclaw Lipka, Defendant-
licensee, Pro se.
William F. Wood, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that she possessed on the licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulations No. 20.

On April 5, 1956 an ABC agent tested 29 open bottles of assorted brands of alcoholic beverages and seized divers bottles thereof when the tests indicated that the contents of the respective bottles did not appear to be genuine as labeled. Subsequent analysis by the Division's chemist established the fact that four bottles were too low in proof for the particular brands in question. These were one quart labeled "Fleischmann's 90 Proof Preferred Blended Whiskey", one quart bottle labeled "Imported Seagram's V. O. Canadian Whisky A Blend 86.8 Proof", one quart bottle labeled "XXXX Paul Jones Blended Whiskey 86 Proof", and one quart bottle labeled "Four Roses Blended Whiskey 86.8 Proof".

At the time of the seizure, one Steve Lipka was in charge of the premises and when confronted with the results of the tests made by the agent denied that he tampered with the contents of the bottles in question. Nevertheless, the licensee is responsible for any "refills" found on the licensed premises. Cedar Restaurant and Cafe Co. v. Hock, 135 N. J. L. 156.

In the absence of a prior record the minimum penalty for a violation of the kind in question is twenty days. Cf. Re Tersigni, Bulletin 921, Item 4. However, when the license was held by Waclaw Lipka, it was suspended by the local issuing authority for five days, effective December 7, 1942, for an "hours" violation; and it was again suspended for ten days, effective April 4, 1949, for a similar violation as that presently under consideration. Re Lipka, Bulletin 838, Item 9. In view of the fact that the first dissimilar violation occurred more than five years ago, I shall not consider it in fixing the penalty herein. Re Broadway Cafe, Inc., Bulletin 982, Item 4. However, the prior similar violation, occurring within ten years, will be considered in fixing the penalty to be imposed herein. Re Candell, Bulletin 973, Item 5. Under the circumstances, I shall suspend defendant's license for a period of twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 28th day of May, 1956,

ORDERED that Plenary Retail Consumption License C-272, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Jeanne Podurgel, Adm. of Estate of Waclaw Lipka, 384 Grove Street, Jersey City, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. June 5, 1956, and terminating at 2:00 a.m. June 25, 1956.

WILLIAM HOWE DAVIS
Director.

- 5. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - FALSE STATEMENT IN APPLICATION AS TO PREVIOUS SUSPENSION - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

PARLAKE, INC.)
 T/a LEO'S)
 Corner Halsey & Deerfield Roads)
 Parsippany-Troy Hills Township)
 PO Parsippany, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-23, issued by the Township)
 Committee of Parsippany-Troy Hills Township.)

 Julius Kwalick, Esq., Attorney for Defendant-licensee.
 Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that (1) it sold and delivered alcoholic beverages in their original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38; and (2) it made a false statement in its current license application as to the previous suspension of its license, in violation of R. S. 33:1-25.

The file herein discloses that on Sunday, April 22, 1956, ABC agents purchased from the bartender in defendant's licensed premises twelve 12-ounce cans of beer for off-premises consumption. The agents carried the merchandise outside but returned within minutes and made their identities known to the bartender who, in a signed sworn statement, identified himself as Leo Didur, president and secretary of defendant corporate-licensee, and admitted the aforesaid sale. The file further discloses that the application upon which defendant obtained its current license contained a false statement that the license was not previously suspended.

Defendant has a prior adjudicated record. Effective July 26, 1948, its license was suspended for three days by the local issuing authority for sale of alcoholic beverages to minors. The prior dissimilar violation which occurred more than five years ago will not be considered in fixing the penalty herein. Re Buratti, Bulletin 1097, Item 1. I shall suspend defendant's license for a period of fifteen days on Charge 1 (Re Garcia, Bulletin 1102, Item 12) and ten days on Charge 2 (Re Vasslides, Bulletin 1104, Item 3), or a total suspension of twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 28th day of May, 1956,

ORDERED that Plenary Retail Consumption License C-23, issued by the Township Committee of Parsippany-Troy Hills Township to Parlake, Inc., t/a Leo's, corner Halsey & Deerfield Roads, Parsippany-Troy Hills Township, be and the same is hereby suspended for a period of twenty (20) days, commencing at 3:00 a.m. June 5, 1956, and terminating at 3:00 a.m. June 25, 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
 BALZER'S DELICATESSEN, INC.
 1356 Teaneck Road
 Teaneck, N. J.,
 Holder of Plenary Retail Distribution License D-5, issued by the Township Council of the Township of Teaneck.

CONCLUSIONS AND ORDER

 Herbert F. Myers, Jr., 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 a charge alleging that it sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20.

Acting upon information obtained from the Teaneck Police Department, ABC agents obtained sworn statements from Pvt. Edward --- (19 years of age) and Pfc. William --- (18 years of age). In his statement Edward --- says that on the evening of May 8, 1956, he and the other minor drove to the vicinity of defendant's licensed premises; that about 8:20 p.m. or 8:30 p.m. both entered the premises; that he purchased from a male clerk a "5th" of white port wine and a bottle of lemon juice which he carried with him from the store. In his statement William --- says that he entered defendant's premises with Edward ---. He further says that he purchased the wine, but it is evident from his statement that he gave the money to Edward who paid the clerk and carried the bottle from the store. Under the circumstances, I am satisfied that the purchase was made by Edward ---.

Defendant has no prior record. Until recently the usual penalty for sale of alcoholic beverages to a minor 19 years of age was a suspension of the license for ten days (Re Lane, Bulletin 1085, Item 10). However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days. Since the violation herein was committed after said announcement, I shall suspend defendant's license for a period of fifteen days. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 28th day of May, 1956,

ORDERED that Plenary Retail Distribution License D-5, issued by the Township Council of the Township of Teaneck to Balzer's Delicatessen, Inc., for premises 1356 Teaneck Road, Teaneck, be and the same is hereby suspended for ten (10) days, commencing at 9:00 a.m. June 4, 1956, and terminating at 9:00 a.m. June 14, 1956.

WILLIAM HOWE DAVIS
 Director.

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

In the Matter of Disciplinary Proceedings against
 WILLIAM J. HAHN
 827 Summer Avenue
 Newark 4, N. J.,
 Holder of Plenary Retail Consumption License C-94, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS
 AND ORDER

 Edmond J. Dwyer, 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 January 31, February 2, 3, 15, 21 and 24, 1956, you engaged in and allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20."

The file herein discloses that on the dates alleged in the above charge, ABC agents visited defendant's licensed premises wherein they observed the licensee, his bartender, numerous patrons and two "bookies" engaged in ostensible bookmaking activities. On each of the last three visits one of the agents placed with a "bookie" a horse race bet which netted him a profit. When the "bookie" accepted the last bet, which was paid for with marked currency, a police detective and other ABC agents entered the licensed premises as prearranged, identified themselves and found in the possession of one of the "bookies" a "scratch sheet" and twenty horse race betting slips, including that of the "betting" agent. The marked currency was located in a ledger found in the kitchen of the licensed premises. In a signed sworn statement the licensee stated that he had permitted bookmaking in his licensed premises for a period of about two months.

Defendant has no prior adjudicated record. The usual penalty heretofore imposed for permitting commercialized gambling on licensed premises, where the licensee or his employees participated, was a suspension of the license for twenty days. Re Koch, Bulletin 1093, Item 6. However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days. Re Increased Penalties, Bulletin 1095, Item 1. Since the violation in the instant case occurred after that 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 28th day of May, 1956,

ORDERED that Plenary Retail Consumption License C-94, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to William J. Hahn, 827 Summer Avenue, Newark, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. June 6, 1956, and terminating at 2:00 a.m. June 26, 1956.

WILLIAM HOWE DAVIS
 Director.

9. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - CHARGE ALLEGING ADVERTISING ALCOHOLIC BEVERAGES AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST, DISMISSED - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against

METUCHEN LIQUORS, INC.,
333-335 Lake Avenue,
Metuchen, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-5, issued by the Mayor and Council of the Borough of Metuchen.

John C. Stockel, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to charges alleging that (1) on January 6, 1956, it sold alcoholic beverages at less than the price listed in the Minimum Consumer Resale Price List then in effect, and (2) on December 29, 1955, it advertised in a newspaper numerous items of alcoholic beverages for sale at retail at less than the prices listed in the Minimum Consumer Resale Price List then in effect, both in violation of Rule 5 of State Regulations No. 30.

At the hearing, the Minimum Consumer Resale Price Lists, effective October 1, 1955 and January 1, 1956, and the December 29, 1955 issue of the Metuchen Recorder were received in evidence without objection. The Division called an ABC agent who testified that; on January 6, 1956, pursuant to a complaint filed with the Division, he and another agent entered defendant's licensed premises wherein he ordered from Edmund Serafin a bottle of Haig & Haig Five Star Scotch Whisky; that Serafin put the requested whisky in a bag, placed it on the counter, accepted as payment a \$5.00 bill, a single-dollar bill, a ten-cent piece and two five-cent pieces, and gave the agent a penny change; that Serafin deposited the money in the register and rang up \$6.24; that he and the other agent left the premises but returned immediately and after identifying themselves, advised Serafin that he had sold the whisky for \$6.19 which was under the retail consumer price of \$6.24 then in effect; that Serafin stated that "I must have made a mistake"; that he explained to Serafin that defendant had, on December 29, 1955, advertised in the Metuchen Recorder the price of said whisky to be \$6.19 and that other whiskies were advertised in the same issue of the Recorder at prices below the Minimum Consumer Resale Prices currently listed; that Serafin said there had been a mistake made by the newspaper and that he (Serafin) had notified the publisher of the mistake. On cross-examination the agent admitted that he received from Serafin a penny in change and that Serafin had insisted that the amount paid for the Haig & Haig was \$6.25. The other agent corroborated the testimony of the first agent.

Edmund Serafin testified that he was manager and in full charge of defendant's licensed premises on the dates alleged in the charges; that he sold a bottle of Haig & Haig and accepted a five-dollar bill, a single-dollar bill and "what I presumed was two dimes and a nickel"; that he rang up \$6.24 and returned a

penny in change; that he told the Recorder's publisher who was soliciting advertisements to take the prices of the whiskey from the price cards on the shelves where the whiskey was displayed; that when the paper was published it listed the incorrect prices for the liquors advertised; that he phoned the publisher who said, "There is nothing we can do about it, the papers are out"; and that he never sold any liquor below the established price. The newspaper publisher testified that, before publishing the advertisement, he had visited defendant's premises and had taken the prices from the price cards, as requested by Mr. Serafin. He accepted full responsibility for the errors as advertised in the one issue of December 29, 1955, and testified that Serafin immediately thereafter sought without success to remedy the mistake.

Having carefully considered the testimony herein, I find defendant guilty as to Charge 1. Respecting Charge 2: While licensees are responsible for mistakes as to prices of their wares appearing in advertisements, I am satisfied from the facts in the instant case that the fault was solely that of the newspaper publisher which could not, under the circumstances, be rectified by the licensee. Therefore, Charge 2 is dismissed.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of ten days on Charge 1. Re Levine, Bulletin 1104, Item 8.

Accordingly, it is, on this 28th day of May, 1956,

ORDERED that Plenary Retail Distribution License D-5, issued by the Mayor and Council of the Borough of Metuchen to Metuchen Liquors, Inc., 333-335 Lake Avenue, Metuchen, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. June 4, 1956, and terminating at 9:00 a.m. June 14, 1956.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against
LILLIAN M. HUNT & FRANCIS MANZO
T/a B-45 CLUB
45 West Broadway
Paterson, N. J.,

CONCLUSIONS
AND ORDER.

Holders of Plenary Retail Consumption License C-250, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

Bruno L. Leopizzi, Esq., Attorney for Defendant-licensees.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded not guilty to a charge alleging that on Friday, January 20, and on Saturday, January 21, 1956, 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.

At the hearing, Henry --- testified, in substance, that he was born March 11, 1935; that at about 10:30 p.m., Friday, January 20, 1956, he and an adult companion visited defendants' licensed premises and seated themselves at the bar therein; that the barroom was "pretty crowded"; that Francis Manzo (one of the licensees) was tending bar; that later a heavy-set blonde female known as "Diamond Lil" went behind the bar; that Manzo served him four glasses of beer; that after midnight, he met another adult at the bar and ordered and was served a glass of beer by Manzo; that he and his two adult companions were each served two more glasses of beer; that all the beverages were consumed on the licensed premises; and that no one made inquiry as to his age. On cross-examination, Henry testified that he had never before been in defendants' tavern; that he met and engaged in an argument with a female who was on the premises; that he and one of his companions left at about 12:30 a.m. the following morning; and that "I was feeling good. I wasn't drunk".

Both adult companions corroborated in detail Henry's testimony and on cross-examination denied that the violation occurred in another licensed establishment known as "Fifi's Tavern", one adult stating that he was not in "Fifi's" on January 20, 1956, the other stating that he had not been in "Fifi's" since 1947. Both witnesses testified that "Fifi" is a brunette and "Diamond Lil" is a blonde.

An ABC agent testified that he and another agent were directed by Henry and his aforesaid adult companions to defendants' licensed premises which was pointed out as the place wherein Henry had been served alcoholic beverages and that therein Henry and his companions identified Manzo as the person who had served said beverages.

Defendants called a restaurateur who testified that he purveys "pizzas" to tavern patrons; that between 10:00 and 11:00 p.m., Friday, January 20, 1956, he and one of his customers named "Vic" visited "Fifi's Tavern" which is "four or five doors down from me"; that as they entered therein, there was a "commotion"; that Henry and one of his companions (both of whom he identified from the witness stand) participated in the incident; that there were "maybe ten or twelve people, if that many" in "Fifi's" tavern; that "Fifi" and a male were behind the bar; that he and "Vic" remained there about one-half hour, then repaired to defendants' licensed premises where they stayed until 12:30 a.m. the following morning; and that during their stay, he did not see Henry's companions or Henry in defendants' tavern. On cross-examination, he testified that defendants' bar was "crowded"; and that "Fifi" is a brunette and "Diamond Lil" is a blonde. "Vic" corroborated the testimony of the "pizza" purveyor. Manzo testified that he knew one of Henry's companions but that he never saw Henry or the other adult until they visited his establishment with the ABC agents. He testified further that "Diamond Lil" (identified as the other licensee) had assisted him behind the bar on the dates alleged; that his place was "crowded"; and that he never served any alcoholic drink to Henry.

Having carefully considered the testimony herein and the argument of counsel who appeared before me on May 7, 1956, I find defendants guilty as charged.

Defendants have no prior adjudicated record. I shall suspend their license for ten days, the minimum penalty imposed for

an unaggravated sale of alcoholic beverages to a twenty-year-old minor. Re Santa Lucia Restaurant, Inc., Bulletin 1095, Item 12.

Accordingly, it is, on this 28th day of May, 1956,

ORDERED that Plenary Retail Consumption License C-250, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Lillian M. Hunt & Francis Manzo, t/a B-45 Club, 45 West Broadway, Paterson, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. June 4, 1956, and terminating at 3:00 a.m. June 14, 1956.

WILLIAM HOWE DAVIS
Director.

11. DISCIPLINARY PROCEEDINGS - SALES TO MINORS LICENSE
SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
WANDA WASHAK & HELEN WAZNIK
T/a ROXBURY INN
Main Street
Roxbury Township
PO Succasunna, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of Roxbury.

Irving Mandelbaum, 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 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 ABC agents obtained from Daniel --- a signed sworn statement in which he stated that he was 19 years of age; that on January 26, 1956, he purchased in defendants' licensed premises a case (24 cans) of beer and two "shots" of applejack; that he had visited the licensed premises forty or fifty times prior thereto; that on each occasion he consumed beer and whiskey served to him at the bar therein; that on several occasions he purchased quarts of whiskey and cases of canned beer to take out, and that he was not required to produce written proof of his age. The file further discloses that Daniel directed the agents to the licensed premises and pointed it out as the place wherein he had obtained the alcoholic beverages and therein identified Helen Waznik (one of the licensees) and "Hank" (the bartender) as the persons who had served him, and that the said licensee, in a signed sworn statement, admitted that she sold a case of beer to Daniel but "couldn't remember" the other sales recounted to her by the minor.

Defendants have no prior adjudicated record. Until recently the usual penalty imposed for sale of alcoholic beverages to a 19-year-old minor was a suspension of the license for

ten days (Re Kazior, Bulletin 1066, Item 7). However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days (Re Increased Penalties, Bulletin 1095, Item 1). Since the violation in the instant case occurred after that announcement and was aggravated by the quantity and type of alcoholic beverages sold to the minor, I shall suspend defendants' license for a period of twenty days. Cf. Re Casey and Jennings, Bulletin 1098, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 28th day of May, 1956,

ORDERED that Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of Roxbury to Wanda Washak & Helen Waznik, t/a Roxbury Inn, for premises on Main Street, Roxbury Township, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. June 4, 1956, and terminating at 2:00 a.m. June 19, 1956.

WILLIAM HOWE DAVIS
Director.

12. DISCIPLINARY PROCEEDINGS - ORDER TO SHOW CAUSE WHY LICENSE, ALLEGED TO HAVE BEEN IMPROVIDENTLY ISSUED, SHOULD NOT BE CANCELLED, DISMISSED.

In the Matter of Disciplinary Proceedings against

WANDA WASHAK & HELEN WAZNIK
T/a ROXBURY INN
Main Street
Roxbury Township
PO Succasunna, N. J.,

Holders of Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of Roxbury.

CONCLUSIONS
AND ORDER

Irving Mandelbaum, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants were served with an order to show cause why their plenary retail consumption license should not be cancelled because of the following allegation:

"Said license was improvidently issued in violation of R. S. 33:1-25, in that your partnership was disqualified from obtaining such license by reason of the fact that you, Helen Waznik, under the name Helen Jaworski, was on or about June 9, 1943, convicted in the Essex County Court of Quarter Sessions, Essex County, New Jersey, of a crime involving moral turpitude."

Defendants have, by their attorney, admitted that Helen Waznik had been convicted of a crime involving moral turpitude.

The aforesaid conviction was fully set forth in the first application filed on May 11, 1951, for a transfer of the

license to defendants and in each succeeding application for renewal filed thereafter.

This permits either one of two conclusions -- (1) that the local issuing authority did not examine the applications in its investigations (certainly the first requisite of its duty "to investigate applicants" -- R. S. 33:1-24), or (2) that the local issuing authority determined that said conviction did not disqualify Helen Waznik under R. S. 33:1-25. Since the crime of which Helen Waznik was convicted unquestionably involved moral turpitude, any finding of the local issuing authority to the contrary cannot be accepted.

In any event, the licensed partnership obtained the license after full disclosure of all the required pertinent facts.

The illegal situation having been corrected by proceedings to remove disqualification pursuant to R. S. 33:1-31.2, and it appearing that no fraud was practiced by either of the defendants herein, the order to show cause will be discharged.

Accordingly, it is, on this 28th day of May, 1956,

ORDERED that the order to show cause herein be and the same is hereby discharged.

WILLIAM HOWE DAVIS
Director.

13. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CHARLES WEINSTEIN)
T/a BEVERAGE SUPPLY CO.)
16 South Broad Street)
Ridgewood, N.J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-2, issued by the Board of Commissioners of the Village of Ridgewood.)

Charles Weinstein, Defendant-licensee, Pro se.
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 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 April 27, 1956, an ABC agent entered defendant's licensed premises and purchased from defendant one half-gallon bottle of "Schenley Reserve Blended Whiskey" for the sum of \$10.50. The agent left the premises with the bottle and contacted another ABC agent who had remained outside. Both agents re-entered and identified themselves to defendant who admitted the sale. The minimum consumer price then in effect for the item in question was \$11.00.

Defendant has a prior record. Effective April 28, 1948, the then Commissioner suspended his license for five days for a similar violation (Re Weinstein, Bulletin 800, Item 13). The minimum suspension for a violation of this kind is ten days (Re Levine, Bulletin 1104, Item 8). Considering the prior similar violation which occurred more than five years ago, I shall suspend defendant's license for fifteen days (Re Belisonzi and Maurice, Bulletin 1100, Item 11). Five days will be remitted for the plea herein, leaving a net suspension of ten days.

Accordingly, it is, on this 29th day of May, 1956,

ORDERED that Plenary Retail Distribution License D-2, issued by the Board of Commissioners of the Village of Ridgewood to Charles Weinstein, t/a Beverage Supply Co., for premises 16 South Broad Street, Ridgewood, be and the same is hereby suspended for ten (10) days, commencing at 9:00 a.m. June 18, 1956, and terminating at 9:00 a.m. June 28, 1956.



William Howe Davis
Director