

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

FEBRUARY 15, 1962

BULLETIN 1434

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

BULLETIN 1434

FEBRUARY 15, 1962

APPELLATE DECISIONS - NELSON'S DELICATESSEN & LIQUOR, INC. v.
PARSIPPANY-TROY HILLS.

NELSON'S DELICATESSEN & LIQUOR INC.,)
t/a NELSON'S DELICATESSEN AND LIQUOR,)

Appellant,)

v.)

TOWNSHIP COMMITTEE OF THE TOWNSHIP)
OF PARSIPPANY-TROY HILLS,)

Respondent.)

ON APPEAL
CONCLUSIONS
AND ORDER

John H. Grossman, Esq., Attorney for Appellant.
Frank C. Scerbo, Esq., by Herbert S. Glickman, Esq., Attorney
for Respondent.

BY THE DIRECTOR:

The Hearer has submitted the following Report herein:

"This is an appeal from respondent's action on September 19, 1961, whereby it suspended appellant's license D-2 for twelve days, effective at 7 a.m. September 25, 1961. The suspension was imposed after respondent found appellant guilty of a charge alleging that it sold and permitted the sale of alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20. Appellant's premises are located at 71 North Beverwyck Road, Lake Hiawatha, Parsippany-Troy Hills.

"Upon the filing of the appeal an order was entered on September 22, 1961, staying the effect of respondent's order of suspension pending determination of the appeal. R.S. 33:1-31.

"The petition of appeal alleges in substance that the action of respondent was erroneous because (a) it was contrary to the weight of the evidence, and (b) the physical evidence created a doubt as to the veracity of respondent's witnesses.

"At the hearing herein Robert --- testified that he was born on March 6, 1942; that on the evening of April 26, 1961, he and two friends (Kirby --- and Donald ---) drove to the vicinity of appellant's store 'to buy some beer;' that he left the car and entered the premises alone and his friends drove off down the street; that, shortly after he entered the store, he ordered two Schaefer six-packs of beer and then changed his mind and ordered three Schaefer six-packs and four hard rolls from Irving Tobias, a clerk employed by the appellant. Robert --- testified that Mrs. Nelson then entered the premises and buttered the rolls; that the rolls were placed in a separate little bag and that, after Mr. Tobias accepted payment for the beer and rolls, he put his change in his pocket, left the premises with the items he had purchased and was apprehended outside the store by Patrolman O'Brien of the Parsippany-Troy Hills Police Department. Robert further testified that he believed a woman was shopping around when he entered the premises but that nobody was with him while he was in the store and that no one left the store with him.

"Kirby --- testified that on the evening of April 26, 1961, he drove Robert and Donald in his car to the vicinity of appellant's premises; that, after Robert left the car and entered appellant's premises alone, he and Donald drove down the road and came back and parked on the other side of the street. Kirby further testified that later, while seated in his car across the street, he saw Robert, who was then carrying a package, come out of the store alone and saw him apprehended by Officer O'Brien.

"Donald --- testified that on the evening of April 26, 1961, he was in Kirby's car; that he also saw Robert enter appellant's premises alone and that, after they parked across the street, he saw Robert, who was then carrying a package, come out of the store alone.

"Officer Edward O'Brien, of the Parsippany-Troy Hills Police Department, testified that, while he was on duty on April 26, 1961, at about 8 p.m., he drove past Nelson's Delicatessen and saw Robert standing at a counter in the store; that he stopped his car within a short distance, walked back to a point where he could observe the interior of the store, and saw Robert as he received a package from someone behind the counter. As I understand the officer's testimony, he then walked to his car, which was about twenty feet away, and sat in the car until he saw Robert coming down the steps from appellant's premises; that the officer then left his car and apprehended Robert.

"Officer O'Brien testified that, when apprehended, Robert had a package containing three six-packs of beer and a separate bag containing hard rolls, and that he took the package containing the beer from Robert. The bag containing the three six-packs of beer was produced at the hearing by the police officer and marked as an exhibit herein. Officer O'Brien further testified that he and Robert then entered appellant's premises and spoke to Mr. Tobias and to Mr. Nelson; that the only other customer in the store at that time was a woman who was shopping around and that, as he and Robert were leaving to go to police headquarters, one male patron entered the premises.

"On behalf of appellant, Irving Tobias testified that on the evening of April 26, 1961, he was working alone in the store; that Mrs. Nelson was having her supper and that Mr. Nelson was in his office. He testified that Robert --- came in with another man who looked to be about thirty-five years old and about 5 ft. 5 in. tall; that the older man asked for two six-packs of Schaefer beer and then asked him if he could 'make it a third one;' that in the meantime Robert --- asked him for four buttered rolls; that he took the rolls into the kitchen where Mrs. Nelson buttered them; that he placed the three six-packs of beer in a bag and that the man paid for the beer and the rolls; that Robert picked up the package of rolls and that the older man picked up the three packs of beer and that both walked out of the premises. Irving Tobias further testified that at this time there were about six or seven customers in the store and that, after Officer O'Brien and Robert returned to the store, Mr. Nelson heard the commotion and came running out from the back and said 'What is the trouble.'

"Vito Belcastro testified that he was in appellant's premises on the evening of April 26, 1961, between 7:30 p.m. and 8 p.m.; that he noticed an older man (whom he described as ruddy complexioned) and the boy together; that the man asked Tobias for two six-packs of Schaefer and then asked for another pack; that in the meantime the boy asked about the rolls and that Tobias got the rolls for the boy; that the older man paid for the beer and rolls and that the older man carried the beer from the premises. He testified that he did not see any police officer enter the store while he was there. On cross-examination he stated that, after the man and boy left the premises, a woman 'got waited on and then I got waited on' and that left the premises, walked

down the steps and went to his car in the parking lot. He further stated that he did not discuss this incident with anyone until he called at the appellant's store on the following day.

"Edward Wallace testified that on April 26, 1961, he was in appellant's premises shortly after 8 p.m.; that, when he got there, there were 'two guys leaning against the counter;' that one was short, stocky and had a red complexion and the other was Robert, and that the older man picked up the beer and change. He further testified that he left right after the man and boy left, but that he did not see the man or boy outside. This witness stated that he did not discuss this incident with anyone until a couple of days later when Tobias sent word that he wanted to see him.

"Max Nelson testified that he is secretary and treasurer of appellant corporation; that on the evening of April 26, 1961, he was in his office making out some bills when he heard a commotion in the store; that he came out and saw Officer O'Brien and Robert and that Officer O'Brien asked him if he had sold the beer and that he replied 'no.' Max Nelson further testified that, thereafter, he went outside and that, while Officer O'Brien and Robert were standing there, one can fell out of the bag and a man bent down and picked up the can and gave it to the police officer.

"This case presents a sharp conflict between the evidence given by the witnesses for respondent and the witnesses for appellant. There has been much testimony introduced with the apparent purpose of showing that the police officer could not have seen Robert standing at the counter. Photographs introduced into evidence disclose, as was admitted by the witnesses, that there are six steps leading up to the entrance to the store and that the door has a glass panel. I believe that a person standing at the foot of the steps, as the police officer testified he did, would be able to see a person at a counter in the premises. However, it does not appear to me that this point is too material. The question at issue is whether the minor or an adult purchased the beer from Tobias. The minor and his two companions testified that the minor entered the store alone. The minor testified that no other man was with him when he entered or purchased the beer. The police officer and the minor's two companions saw the minor come from the premises with a package. The police officer testified that the package containing the beer was taken by him from the minor, and the package has been introduced into evidence. There was further testimony concerning the question as to whether the minor had one or two packages when he left the store but, in view of the aforesaid testimony, I do not believe that this is a material issue in the case.

"I have carefully considered all the evidence given by the witnesses. The unidentified adult who allegedly purchased the beer from Tobias was not produced. Apparently, Tobias made no claim that the beer had been sold to an adult when the police officer returned to the store with the minor. Apparently, no such contention was made by Max Nelson when he met police officer O'Brien at police headquarters later on the same evening. I do not believe the testimony of the witnesses Belcastro or Wallace. Belcastro testified that, after the purchase of the beer, Tobias waited on a woman and then waited on him and that he didn't see any police officer come into the premises. I am satisfied that the police officer and the minor returned to the premises very shortly after the sale was made. Wallace testified that he left right after the man and boy but that he did not see either the man or boy outside. The police officer testified that he apprehended the boy immediately after he left the premises. Neither Belcastro nor Wallace mentioned the alleged incident until a day or two days after April 26. The testimony given by Max Nelson is not helpful to appellant's case because he was in his office at the time the sale was made and, hence, was in no

position to testify as to whether the sale was made to the minor or to the unidentified adult.

"After reviewing all the evidence I conclude that the witnesses produced by respondent have correctly described the events which occurred on the evening in question and that this evidence is sufficient to establish that the alcoholic beverages were sold by Tobias to the minor. I conclude that the appellant has failed to sustain the burden of proof in establishing that the action of respondent was erroneous and, hence, it is recommended that an order be entered affirming respondent's action and fixing the effective dates for the twelve-day suspension which was stayed pending the determination of this appeal."

No exceptions were taken to the Hearer's Report within the time limited by Rule 14 of State Regulation No. 15.

After carefully considering the evidence and exhibits in the case, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 4th day of January 1962,

ORDERED that the action of respondent be and the same is hereby affirmed; and it is further

ORDERED that the twelve-day suspension heretofore imposed by respondent, and stayed during the pendency of this appeal, be restored to commence at 3 a.m. Wednesday, January 17, 1962, and to terminate at 3 a.m. Monday, January 29, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

- 2. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - FALSE STATEMENT IN APPLICATION AS TO INTEREST IN LICENSED BUSINESS - LICENSE SUSPENDED FOR BALANCE OF ITS TERM, WITH LEAVE TO APPLY TO LIFT AFTER EXPIRATION OF 30 DAYS IF UNLAWFUL SITUATION CORRECTED.

In the Matter of Disciplinary Proceedings against
 CARROLL PLAZA CORPORATION
 t/a CARROLL PLAZA HOTEL
 226-228 Market Street
 Paterson 1, N. J.
 Holder of Plenary Retail Consumption License C-242, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

CONCLUSIONS AND ORDER

 Joseph M. Harrison, Esq., Attorney for Defendant-licensee.
 David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

- "1. On July 25, 1961, you possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises, alcoholic beverages in bottles which bore labels which did not truly describe their contents, viz.,

One quart bottle labeled 'Black & White Blended Scotch Whisky, 86.8 Proof' and

One 4/5 quart bottle labeled 'Blended Scotch Whisky Johnnie Walker Red Label, 86.8 Proof;'

and on such date you possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises an alcoholic beverage in a bottle which did not bear indicia of tax payment as required by the laws of the United States, namely, the above mentioned bottle labeled 'Blended Scotch Whisky Johnnie Walker Red Label, 86.8 Proof;'

in violation of Rule 27 of State Regulation No. 20."

Defendant also pleaded non vult to the following supplemental charge:

- "2. In your application dated June 5, 1961, filed with the Board of Alcoholic Beverage Control for the City of Paterson, upon which you obtained your current plenary retail consumption license, you falsely stated 'No' in answer to Questions 30 and 31, whereas in truth and fact you had entered into an agreement with Honey Mae Pinder whereupon she acquired an interest in your licensed business as a real and beneficial owner thereof and by which you agreed to permit her to retain all the profits from your licensed business after payment to you of a fixed monthly fee and a percentage of the profits from the business; said false statements being in violation of R.S. 33:1-25.
- "3. From about April 12, 1961 to date, you knowingly aided and abetted Honey Mae Pinder to exercise, contrary to R.S. 33:1-26, the rights and privileges of your plenary retail consumption license; thereby yourself violating R.S. 33:1-52."

On July 25, 1961, an ABC agent tested defendant's open stock of liquors and seized two bottles for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of the seized bottles (one of which had no federal stamp affixed to it) varied substantially in solids and color from the contents of genuine samples of the same products.

With respect to Charges 2 and 3 herein, the file discloses that the facts in the case are substantially set forth in the charges. It appears that under a verbal agreement made on April 12, 1961, Miss Pinder was to act as manager and to obtain 75% of the net income of the licensed business.

The violations described in Charges 2 and 3 aforesaid are serious violations of the liquor laws and, in effect, circumvent the control of the license by the constituted authority. Cf. Re Kanzer, Bulletin 1213, Item 3.

By way of mitigation, the defendant's attorney has sent me a letter setting forth therein that the licensee did not know it was violating the rules and regulations of the Division when it entered into the arrangement with Honey Mae Pinder; that it is presently negotiating a sale of the licensed business to Miss Pinder and that, pending the same, it has ceased the sale of alcoholic beverages. Ignorance of the law or the regulations does not afford an excuse to the licensee. Moreover, licensees and their employees must know the rules and scrupulously adhere to them. Re Krynicki, Bulletin 1238, Item 5.

Defendant has no prior adjudicated record. I shall suspend defendant's license on Charge 1 herein for fifteen days, the minimum penalty imposed in "refill" cases involving two bottles (Re Rafferty & Varcardipane, Bulletin 1396, Item 9), and for an additional twenty days on charges 2 and 3 herein, the minimum penalty in cases of this kind (Cf. Re Kanzer, supra), 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.

Since no evidence has been presented to me showing that the unlawful operation of the licensed business has been corrected, I have no alternative except to suspend the license for the balance of its term. Moreover, investigation discloses no alcoholic beverage activities are being conducted on the premises at the present time. Under the circumstances of this case, leave will be given to defendant, or to a transferee of the license, to file with me a petition to lift the suspension herein imposed. The suspension will not be lifted, however, until the expiration of thirty days from the date the defendant, or the transferee, advises me that the premises are ready for re-opening and, in no event, prior to the expiration of thirty days from the effective date of the suspension imposed herein. If a petition is filed, the defendant, or the transferee, must satisfy me that the unlawful situation has been corrected.

Accordingly, it is, on this 28th day of December 1961,

ORDERED that Plenary Retail Consumption License C-242, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Carroll Plaza Corporation, t/a Carroll Plaza Hotel, for premises 226-238 Market Street, Paterson, be and the same is hereby suspended for the balance of its term, effective at 3 a.m. Monday, January 8, 1962, with leave to apply to lift said suspension as hereinabove set forth.

WILLIAM HOWE DAVIS
DIRECTOR

RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM JULY 1, 1961 THROUGH DECEMBER 31, 1961

	1st Quarter		2d Quarter		Total
	July,	Aug., Sept.	Oct., Nov.,	Dec.	
ARRESTS:					
Total number of persons arrested	67		66		133
Licensees and employees	28		37		65
Bootleggers	38		29		67
ABC agent impersonator	1		-		1
SEIZURES:					
Motor Vehicles - cars	2		6		8
- trucks	-		1		1
Stills - over 50 gallons	2		-		2
- 50 gallons or under	2		3		5
Mash - gallons	2,595.00		1,650.00		4,225.00
Distilled alcoholic beverages - gallons	98.41		298.41		396.82
Wine - gallons	40.04		18.08		58.12
Brewed malt alcoholic beverages - gallons	219.52		46.50		265.82
RETAIL LICENSEES:					
Premises inspected	1,442		1,665		3,107
Premises where alcoholic beverages were gauged	1,561		1,869		3,430
Bottles gauged	26,283		30,254		56,537
Premises where violations were found	155		229		384
Violations found	199		254		453
Reg. #38 sign not posted	51		88		139
Unqualified employees	68		58		126
Application copy not available	31		53		84
Prohibited signs	8		12		20
Other mercantile business	11		8		19
Disposal permit necessary	7		4		11
Improper beer taps	2		4		6
Other violations	21		27		48
STATE LICENSEES:					
Premises inspected	107		76		183
License applications investigated	25		20		45
COMPLAINTS:					
Complaints assigned for investigation	1,158		1,193		2,351
Investigations completed	1,187		1,181		2,368
Investigations pending	(147)		155		155
LABORATORY:					
Analyses made	760		590		1,350
Refills from licensed premises - bottles	150		115		265
Bottles from unlicensed premises	160		77		237
IDENTIFICATION:					
Criminal fingerprint identifications made	25		32		57
Persons fingerprinted for non-criminal purposes	1,027		710		1,737
Identification contacts made with other enforcement agencies	715		568		1,383
Motor vehicle identifications via N. J. State Police teletype	--		13		13
DISCIPLINARY PROCEEDINGS:					
Cases transmitted to municipalities	42		30		72
Violations involved	46		33		79
Sale during prohibited hours	25		20		45
Sale to minors	13		8		21
Possessing chilled beer (DL licensee)	2		2		4
Failure to close premises during prohibited hours	3		-		3
Service to women at the bar (local reg.)	1		1		2
Permitting hostesses on premises	1		1		2
Employing female bartender (local reg.)	1		1		2
Cases instituted at Division	100*		78**		178
Violations involved	130		101		231
Possessing liquor not truly labeled	15		30		45
Sale to minors	21		8		29
Sale during prohibited hours	16		11		27
Beverage Tax Law non-compliance	17		3		20
Permitting lottery activity on premises	9		8		17
Permitting immoral activity on premises	6		2		8
Fraud and front	3		5		8
Sale below filed price	3		5		8
Permitting bookmaking on premises	3		4		7
Permitting hostesses on premises	6		-		6
Conducting business as a nuisance	4		2		6
Hindering investigation	3		3		6
Failure to close premises during prohibited hours	4		1		5
Possessing contraceptives on premises	3		1		4
Permitting foul language on premises	1		3		4
Unqualified employees	2		1		3
Permitting gambling on premises	1		2		3
Application copy not on premises	1		2		3
Unauthorized transportation	2		1		3
Delivery without bona fide invoice	2		-		2
Substituting drink other than ordered	2		-		2
Sale to intoxicated persons	1		1		2
Solr-permittee engaging in conduct prohibited to employer	-		2		2

*Includes one cancellation proceedings--license improvidently issued in violation of State Limitation Law.

**Includes two cancellation proceedings--licenses improvidently issued (1) in violation of State Limitation Law and (2) to club not bona fide

	1st Quarter				Total
	July, Aug.,	Sept.	Oct.	Nov., Dec.	
DISCIPLINARY PROCEEDINGS (Continued)					
Cases instituted at Division (Continued)					
Peddling from vehicle		1	-		1
Employing police officer on premises		1	-		1
Service to women at the bar (local reg.)		1	-		1
Act of violence on premises		1	-		1
Sale outside scope of license		1	-		1
Failure to keep true books of account		-	1		1
Permitting female impersonators on premises		-	1		1
Sale on credit to retailer in default		-	1		1
Accepting unlawful inducement from wholesaler		-	1		1
Sale on Election Day		-	1		1
Storage off licensed premises		-	1		1
Cases brought by municipalities on own initiative and reported to Division	37		55		92
Violations involved	42		65		107
Sale to minors	20		40		60
Permitting brawl on premises	5		4		9
Conducting business as a nuisance	3		6		9
Sale during prohibited hours	2		5		7
Failure to close premises during prohibited hours	4		1		5
Failure to afford view into premises during prohibited hours	3		-		3
Permitting lottery activity on premises	2		1		3
Hindering investigation	2		-		2
Permitting gambling on premises	-		2		2
Unqualified employees	1		-		1
Permitting foul language on premises	-		1		1
Possessing chilled beer (DL licensee)	-		1		1
Bartender without identification card (local reg.)	-		1		1
Illegal activity connected with licensed premises	-		1		1
Permitting immoral activity on premises	-		1		1
Service to women at the bar (local reg.)	-		1		1
HEARINGS HELD AT DIVISION:					
Total number of hearings held	131		137		268
Appeals	20		18		38
Disciplinary proceedings	77		79		156
Eligibility	14		23		37
Seizures	7		12		19
Tax revocations	13		5		18
STATE LICENSES AND PERMITS ISSUED:					
Total number issued	4,525		4,615		9,140
Licenses	597		8		605
Solicitors' permits	143		152		295
Employment "	980		719		1,699
Disposal "	267		217		484
Social affair "	1,329		1,166		2,495
Wine "	2		902		904
Miscellaneous "	512		568		1,080
Transit insignia	650		842		1,492
Transit certificates	45		41		86
OFFICE OF AMUSEMENT GAMES CONTROL:					
Licenses issued	10		90		100
Premises inspected	1,291		1		1,292
Premises where violations were found	19		-		19
Violations found	21		-		21
Enforcement files established	143		111		254
Disciplinary proceedings:					
Cases instituted at Division	6		-		6
Violations involved	9		-		9
Redemption of prize for money	4		-		4
Hindering investigation	2		-		2
Operating controlled game	1		-		1
Operating game not within certification	1		-		1
Charge in excess of 25¢ per entry	1		-		1
Cases brought by municipalities on own initiative and reported to Division	-		1		1
Violation involved: Operating unlicensed game	-		1		1
Hearings held at Division	3		3		6

WILLIAM HOWE DAVIS
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

Dated: January 12, 1962

DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - PRIOR RECORD -
 LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

WALDRON, INC,)
 t/a WALLY'S CORNER TAVERN)
 332 Henderson Street)
 Jersey City, New Jersey)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption License C-264, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

 Leo J. Berg, Esq., Attorney for Defendant-licensee.
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On November 28, 1961, and on divers days prior thereto you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets in a lottery commonly known as the 'numbers game'; in violation of Rule 7 of State Regulation No. 20.
- "2. On November 28, 1961, and on divers days prior thereto, you allowed, permitted and suffered tickets and participation rights in a lottery commonly known as the 'numbers game' to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

Acting upon a complaint that number bets were being accepted at the licensed premises, ABC agents visited defendant's premises on November 22, November 27 and November 28, 1961.

On their first visit the agents observed a patron hand a slip of paper with numbers thereon to another patron. The agents left without identifying themselves.

On their second visit the agents observed a patron, subsequently identified as Sam Sofia, taking money from other patrons. Sofia left the premises, crossed the street and entered his car. The agents followed and placed with him, while he was seated in his car, dollar bets on two numbers. The agents did not identify themselves.

On their third visit the agents entered the premises at about 11 a.m. Manuele Terlizzi was tending bar. The agents told the bartender that they had placed bets with Sofia on the previous day and asked if he was O.K. The bartender replied, "Yeah, he's good", and thereafter told the agents that he had collected from Sofia on a winning number during the previous month. At about 11:15 a.m. Sofia entered, looked at the agents, conversed in low tones with the bartender and then entered into conversation with the agents. The agents, in the presence of the bartender, then gave Sofia four one-dollar bills, the numbers of which had been previously recorded, as bets on four numbers. Sofia also accepted number bets from other patrons. Pursuant to previous arrangements, members of the Jersey City Police Department and another ABC agent entered the premises and found in Sofia's possession numerous slips and

a sum of money, including the four one-dollar bills given to him by the agents. Sofia was placed under arrest.

Defendant has a prior record. Effective January 7, 1961, I suspended its license for five days for possession of alcoholic beverages not truly labeled. Bulletin 1374, Item 7. I shall suspend defendant's license for twenty-five days, the minimum suspension in a case where a licensee or his employee is involved (Re Buttaci, Bulletin 1397, Item 7), to which five days will be added because of the prior dissimilar violation within the past five years (Re Club 75 Corporation, Bulletin 1395, Item 4). Five days will be remitted for the plea, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 28th day of December 1961,

ORDERED that Plenary Retail Consumption License C-264, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Waldron, Inc., t/a Wally's Corner Tavern, for premises 332 Henderson Street, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m., Monday, January 8, 1962, and terminating at 2 a.m., Friday, February 2, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

THEODORE & PETER KACHEL)
t/a TED & PETE'S BAR & GRILL)
626 Summit Avenue)
Jersey City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-353, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Defendant-licensees, by Peter Kachel, Partner.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

- "1. On Sunday, November 19, 1961, at about 3:05 p.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., a 4/5 pint bottle (tenth) of Cutty Sark Blended Scots Whisky, at retail, in its original container for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverage in its original container from your licensed premises; in violation of Rule 1 of State Regulation No. 38.
- "2. On Sunday, November 19, 1961, at about 3:05 p.m., you sold and offered for sale at retail, directly or indirectly, the above mentioned 4/5 pint bottle (tenth) of Cutty Sark Blended Scots Whisky, an alcoholic beverage, at less than the price thereof

filed with the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30."

On Sunday, November 19, 1961, an ABC agent entered defendants' premises where Joseph Kachel (a brother of Peter Kachel) was tending bar. At about 3:05 p.m., the agent asked the bartender for a 4/5 pint bottle of Cutty Sark Blended Scots Whisky "to go". The bartender placed the bottle in a paper bag and told the agent that the price of the bottle was \$3.30. After paying this amount, the agent left with the bottle and contacted another ABC agent who had remained outside. Both agents entered the premises and identified themselves to the bartender. The minimum consumer resale price then in effect for the item purchased was \$3.49.

Defendants have no prior record. I shall suspend their license for fifteen days on Charge 1 (Re Straus, Bulletin 1415, Item 6) and for ten days on Charge 2 (Re Durso, Bulletin 1390, Item 6). Five days will be remitted for the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 3rd day of January 1962,

ORDERED that Plenary Retail Consumption License C-353, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Theodore & Peter Kachel, t/a Ted & Pete's Bar & Grill, for premises 626 Summit Avenue, Jersey City, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m., Tuesday, January 16, 1962 and terminating at 2:00 a.m., Monday, February 5, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

DISCIPLINARY PROCEEDINGS - SALE AND FAILURE TO CLOSE PREMISES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against SALVATORE DI GREZIA & FRANK DI GREZIA t/a C & C BAR & GRILL 407 - 21st Avenue Paterson, N. J.
Holders of Plenary Retail Consumption License C-336, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

CONCLUSIONS AND ORDER

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

BY THE DIRECTOR:

Defendants pleaded guilty to the following charges:

- 1. On Sunday, December 10, 1961, at about 12:30 p.m., you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages on your licensed premises; in violation of Section II of an Ordinance adopted by the Board of Alcoholic Beverage Control for the City of Paterson, on May 27, 1948.

- "2. On Sunday, December 10, 1961, at about 12:30 p.m., you failed to have your entire licensed premises closed; in violation of Section III of an Ordinance adopted by the Board of Alcoholic Beverage Control for the City of Paterson, on May 27, 1948.
- "3. On Sunday, December 10, 1961, at about 12:30 p.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., six 12 ounce cans of Rheingold beer, at retail, in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

On Sunday, December 10, 1961, at approximately 12:15 p.m., ABC agents observed a man alight from an automobile and walk to the front door of defendants' licensed premises. Upon finding the door locked, the man peered into the premises through the front window, waited a few minutes and then got into his car and drove to the side of the premises which he entered through a side door. At about 12:30 p.m. the man came out of the premises carrying a brown paper bag, at which time the agents approached him and ascertained that the bag contained six cans of beer. The agents and the man went into the premise and, after identifying themselves to Salvatore DiGrezia (one of the defendant-licensees), the latter verbally admitted the "hours" violations

Defendants have a prior adjudicated record. Effective October 9, 1956, defendants' license was suspended for ten days for an "hours" violation. Bulletin 1139, Item 2. I shall suspend defendants' license for a period of twenty days (Re Mattern, Bulletin 1403, Item 4), plus five days for the similar violation occurring more than five but less than ten years, making a total 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 2nd day of January 1962,

ORDERED that Plenary Retail Consumption License C-336, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Salvatore Di Grezia & Frank Di Grezia, t/a C & C Bar & Grill, for premises 407 - 21st Avenue, Paterson, be and the same is hereby suspended for twenty (20) days, commencing at 3 a.m. Tuesday, January 9, 1962, and terminating at 3 a.m. Monday, January 29, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CHESTER ZALESKI t/a 10th AVENUE TAVERN 350 - 10th Avenue Paterson, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-131, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On Tuesday, November 28, 1961, at about 11:07 p.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., six 12-ounce cans of Schaefer beer, at retail in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

Shortly after 11:00 p.m. on the evening of Tuesday, November 28, 1961, ABC agents observed Nicholas DeFeo (a bartender in defendant's premises) serve a glass of beer to a patron and accept from the patron the sum of \$1.20, which he rang upon the cash register. At about 11:07 p.m. the patron opened a beer cooler and removed a six-pack of beer which he placed in a paper bag. The patron left the premises with the bag. The agents followed and stopped the patron outside, after which all returned to the premises, where the agents identified themselves to the bartender.

Defendant has no prior adjudicated record. In attempted mitigation, defendant has advised me by letter that the bartender acted contrary to his instructions and that the beer which the patron removed after 11:00 p.m. had purchased by him during a previous visit to the premises on the afternoon of the same day. Neither explanation can be considered as a mitigating factor in the case. See Rule 33 of State Regulation No. 20 and Rule 1 of State Regulation No. 38. I shall suspend defendant's license for fifteen days. Re Harris, Bulletin 1418, Item 5. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 4th day of January 1962,

ORDERED that Plenary Retail Consumption License C-131, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Chester Zaleski, t/a 10th Avenue, Tavern, for premises 350 - 10th Avenue, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m., Monday, January 15, 1962 and terminating at 3:00 a.m., Thursday, January 25, 1962.

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)

SILK CITY BOTTLING CO., INC.)
t/a SILK CITY LIQUOR SHOP)
282½ Trenton Avenue)
Paterson 2, N. J.)

CONCLUSIONS
AND ORDER

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

Robert I. Goodman, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On Thursday, November 30, 1961, two ABC agents entered defendant's licensed premises and asked Samuel Newman (president and treasurer of the corporate licensee) how much he would charge them for three quarts of "Seagram's Seven", telling him that they were going to have a party and that they were in charge of the liquor. Newman hesitated a few seconds and replied, "\$16.50, that's giving you a break". The agents accepted his offer and, after paying him, left with the merchandise and showed it to a third agent who had remained outside. The three agents then entered the premises, made their identities known to Newman and informed him of the violation. The minimum price then in effect for three full quarts of the named brand was \$17.70.

Defendant has a prior adjudicated record. When it held the license for premises 8-10 Amity Street, Paterson, it was suspended for fifteen days, effective October 17, 1955 by this Division for making deliveries without bona fide invoices, soliciting from house-to-house and accepting orders off its licensed premises. Bulletin 1086, Item 10. Since the dissimilar violation occurred more than five years ago, it will not be considered in fixing the penalty herein. I shall suspend defendant license for ten days, the minimum penalty imposed for the violation charged, and remit five days for the plea entered, leaving a net suspension of five days. Re Holtzman, Bulletin 1390, Item 9.

Accordingly, it is, on this 11th day of January 1962,

ORDERED that Plenary Retail Distribution License D-20, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Silk City Bottling Co., Inc., t/a Silk City Liquor Shop, for premises 282½ Trenton Avenue, Paterson, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m., Monday, January 22, 1962, and terminating at 9:00 a.m., Saturday, January 27, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against
 DUTKO CO., INC.
 326 Hope Avenue
 Clifton, N. J.
 Holder of Plenary Retail Consumption License C-66, issued by the Municipal Board of Alcoholic Beverage Control of the City of Clifton.

CONCLUSIONS
 AND ORDER

 Defendant-licensee, by Nicholas Dutko, President.
 David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On October 31, 1961, an ABC agent gauged and tested defendant's open stock of liquor and seized one bottle labeled "Seagram's Seven Crown American Blended Whiskey, 86 Proof" for further analysis by the Division's chemist. The report of the chemist shows that the contents of the seized bottle are low in acids and lighter in color when compared with samples of the genuine product of the named brand.

Defendant has no prior adjudicated record. I shall suspend its license for ten days, the minimum penalty imposed in "refill" cases involving one bottle. Re Padgett, Bulletin 1423, Item 9. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 11th day of January, 1962,

ORDERED that Plenary Retail Consumption License C-66, issued by the Municipal Board of Alcoholic Beverage Control of the City of Clifton to Dutko Co., Inc., for premises 326 Hope Avenue, Clifton, be and the same is hereby suspended for five(5) days commencing at 3:00 a.m., Monday, January 22, 1962, and terminating at 3:00 a.m., Saturday, January 27, 1962.

WILLIAM HOWE DAVIS
 DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against)

MILDRED LOMBARDO)
t/a LOMBARDO'S)
Central Ave. w/s North of)
Artic Ave.)
Buena Borough (Atlantic Co.))
PO Minotola, N. J.)

CONCLUSIONS
AND ORDER

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

Defendant-licensee, Pro se.

Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

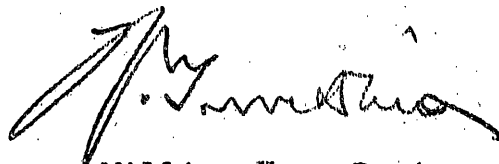
Defendant pleaded non vult to a charge alleging that she sold alcoholic beverages below the price listed in the Minimum Resale Price List then in effect, in violation of Rule 5 of State Regulation No. 30.

On December 19, 1961, an ABC agent purchased from Joseph Lombardo (son of defendant licensee) three 4/5 quart bottles of Canadian Club Blended Canadian Whisky, for \$17.40. The minimum consumer resale price then in effect for said item was \$6.30 per bottle. The agent left the premises with the bottles but returned immediately with another ABC agent who had remained outside. After the agents identified themselves, Joseph Lombardo admitted that he had made the sale.

Defendant has no prior record. I shall suspend defendant's license for the minimum period of ten days. Re Fair Wine and Liquor Stores, Bulletin 1397, Item 8. Five days will be remitted for the plea, leaving a net suspension of five days.

Accordingly, it is, on this 17th day of January 1962,

ORDERED that Plenary Retail Distribution License D-1, issued by the Borough Council of the Borough of Buena to Mildred Lombardo, t/a Lombardo's, for premises on Central Ave. w/s North of Artic Ave., Buena Borough (Atlantic Co.), be and the same is hereby suspended for five (5) days, commencing at 9 a.m. Monday, January 29, 1962, and terminating at 9 a.m. Saturday, February 3, 1962.



William Howe Davis
Director