

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

BULLETIN 1128

AUGUST 28, 1956.

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While defendants have no prior adjudicated record, because of the quantities of alcoholic beverages involved, a greater penalty than ordinarily imposed is warranted. I shall suspend defendants' 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 18th day of July, 1956,

ORDERED that Plenary Retail Distribution License D-1, issued for the 1956-57 licensing year by the Township Committee of the Township of Rockaway to Arthur Otto Bilitz and Irene W. Bilitz, Mt. Hope Road & Mt. Hope Avenue, Rockaway Township, be and the same is hereby suspended for a period of thirty (30) days, commencing at 9:00 a.m. July 23, 1956, and terminating at 9:00 a.m. August 22, 1956.

WILLIAM HOWE DAVIS  
Director.

- 2. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AND PERMITTING PERSONS OTHER THAN THE LICENSEE AND EMPLOYEES ON LICENSED PREMISES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

MADELINE DeCARLO )  
T/a TOMMIE'S GLASS BAR )  
24 Bergen Avenue )  
Jersey City 5, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-101, for the 1955-56 and 1956-57 licensing periods, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

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

BY THE DIRECTOR:

Defendant pleaded guilty to charges alleging (1) she conducted her licensed business during prohibited hours, and (2) suffered and permitted persons other than her actual employees and agents in and upon her licensed premises during prohibited hours, both in violation of a local ordinance.

On Sunday, April 29, 1956, at about 11:00 a.m., two ABC agents looked through the front window of the licensed premises and observed a bartender dispensing drinks. They thereupon proceeded to a side entrance of the premises, attracted the attention of the bartender and identified themselves to him. The agents entered the premises and, on the bar in front of two patrons stood a whiskey highball and a glass of beer; other drinks which had been seen by the agents immediately prior to their entering the tavern were removed by the bartender.

The bartender identified himself as Thomas DeCarlo (husband of the licensee), who stated he had opened the premises that morning at 10:00 o'clock.

The local ordinance prohibits the conduct of the licensed business between 2:00 a.m. and 1:00 p.m. on Sundays, and prohibits persons other than the licensee and her actual employees to be in and upon the licensed premises between said hours.

Defendant has a prior adjudicated record. Effective November 3, 1952, the local issuing authority suspended her license for five days for a violation essentially similar to those charged herein. The minimum suspension for an "hours" violation is fifteen days (Re Salek, Bulletin 1116, Item 6). However, since the prior similar violation occurred within a five-year period, the penalty herein will be doubled. Re Berger Co., Inc., Bulletin 1108, Item 9. I shall suspend defendant's license for thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 23rd day of July, 1956,

ORDERED that Plenary Retail Consumption License C-101, issued for the 1956-57 licensing period by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Madeline DeCarlo, t/a Tommie's Glass Bar, 24 Bergen Avenue, Jersey City, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 a.m. August 2, 1956, and terminating at 2:00 a.m. August 27, 1956.

WILLIAM HOWE DAVIS  
Director.

- 3. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - POSSESSING ~~INNOCENT~~ DRAWINGS OR CARTOONS - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

ALFRED & MARIE MESSING )  
T/a CLUB 83 )  
83 Livingston Street )  
Elizabeth 1, N. J., )

CONCLUSIONS AND ORDER

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Holders of Plenary Retail Consumption License C-246 for the 1955-56 and 1956-57 licensing periods, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth, )

Alfred and Marie Messing, 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 Friday, May 25, 1956 at about 11:15 p.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages at retail in their original containers for consumption off your licensed premises; in violation of Rule 1 of State Regulations No. 38.

"2. On May 19, 25 and 31, 1956, you allowed, permitted and suffered in and upon your licensed premises and had in

your possession matter, viz., a number of plywood placards or signs each containing a picture, cartoon, drawing, sketch or representation with accompanying words, phrases, legend or expression, having obscene, indecent, filthy, lewd, lascivious and disgusting import and meaning; in violation of Rule 17 of State Regulations No. 20."

The file herein discloses that on Friday, May 25, 1956, at about 10:40 p.m., two ABC agents visited defendants' licensed premises to investigate a complaint that alcoholic beverages were being sold in original containers for off-premises consumption during prohibited hours. The agents approached the bar and ordered two glasses of beer which were served to them by the bartender, Alfred Messing, one of the defendant-licensees. At about 11:15 p.m., the agents repeated their order and while being served one of them asked the bartender if he could have six cans of beer to take with him. The bartender thereupon went to a rear room, returned with a package, placed the same under the bar and indicated by a sign that it contained the six cans of beer. In payment thereof the bartender helped himself to \$1.10 from monies previously placed on the bar by the agents. At 11:30 p.m., one of the agents was given the package by the bartender and departed with the same in company with the other agent. Immediately thereafter, the agents re-entered the premises and identified themselves to Mr. Messing who admitted the unlawful sale of the six cans of beer.

The agents, during the course of their activities in this case, noticed that the back bar of the premises was decorated with some plaques which, in their opinion, verged on impropriety and reported the same to the Division.

On Thursday, May 31, 1956, at about 2:00 p.m., another ABC agent pursuant to instructions to investigate aforementioned decorations, visited the licensed premises and observed on its back bar a number of plaques and signs conspicuously displayed. Six of these plaques, herein being considered, were made of plywood upon which were painted cartoons accompanied by writings with a double entendre. Some of these cartoons unattended by their printed matter would not be shocking or offensive, but when viewed together with the inscriptions thereon become obscene and indecent. The remaining plaques, by their very cartoons, are obscene and indecent and doubly so because of their writings. In a signed statement Marie Messing, one of the licensees herein, says that the plaques were placed on the back bar at various times during the past two years by Alfred Messing, her husband and partner.

Defendants have no prior adjudicated record. I shall suspend defendants' license for fifteen days on Charge 1 (Re Crow's Nest, Inc., Bulletin 1108, Item 3) and for ten days, the minimum penalty, on Charge 2 (Re Deaver, Bulletin 1096, Item 5), making 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 11th day of July, 1956,

ORDERED that Plenary Retail Consumption License C-246, issued for the 1956-57 licensing period by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth to Alfred & Marie Messing, t/a Club 83, 83 Livingston Street, Elizabeth, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. July 18, 1956, and terminating at 2:00 a.m. August 7, 1956.

WILLIAM HOWE DAVIS

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

In the Matter of Disciplinary Proceedings against )

JOE CRINE'S TAVERN, INC. )  
T/a JOE CRINE'S TAVERN )  
153 Sea Girt Avenue )  
Manasquan, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-2 for the 1955-56 )  
and 1956-57 licensing periods, )  
issued by the Borough Council of )  
the Borough of Manasquan. )

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Joe Crine's Tavern, Inc., by Joe Crine.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On Wednesday, June 13, 1956, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., John E. ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

The within file discloses that at approximately 10:40 p.m., on Wednesday, June 13, 1956, two ABC agents observed a bartender employed by defendant serve a glass of beer to a youth who appeared to be a minor. The agents identified themselves to the youth in question who stated that he was twenty years of age and gave a written statement to that effect. The bartender admitted service of the alcoholic beverages to the minor and that he did not question him as to his age prior to said service.

The minimum suspension for a sale to a minor twenty years of age is ten days. Re 236 Broad Avenue, Inc., Bulletin 1109, Item 7. However, defendant has a prior adjudicated record. Effective January 16, 1955, its license was suspended by the local issuing authority for fifteen days for sale to minors. Inasmuch as said similar violation occurred within a period of five years, I shall double the penalty and suspend defendant's license for twenty days. Re Pike Inn (A Corp.), Bulletin 987, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days. Cf. Re Palermo and Durante, Bulletin 1108, Item 8.

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

ORDERED that Plenary Retail Consumption License C-2, issued for the 1956-57 licensing period by the Borough Council of the Borough of Manasquan to Joe Crine's Tavern, Inc., t/a Joe Crine's Tavern, 153 Sea Girt Avenue, Manasquan, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. July 17, 1956, and terminating at 2:00 a.m. August 1, 1956.

WILLIAM HOWE DAVIS  
Director.

5. DISCIPLINARY PROCEEDINGS - GAMBLING - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

JOSEPH DATTI

T/a. DATTI'S BAR

647 High Street

Burlington, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-3 for the 1955-56 and 1956-57 licensing periods, issued by the Common Council of the City of Burlington.

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Joseph Datti, Defendant-licensee, Pro se.

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On May 8, 1956, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the playing of a pool game for stakes of money; in violation of Rule 7 of State Regulations No. 20."

The file in the instant case discloses that the bartender, Cataldo (Dean) Datti, son of the defendant, played bank pool with an ABC agent and two other men and at the end of the games the losers paid a stipulated sum of money (one dollar in the first game and two dollars in the second game) to the winners thereof. Also, those who lost had to purchase drinks for those who won the games. The agent paid his share and also paid for drinks served to the winners.

Defendant has a prior adjudicated record. Effective October 4, 1948, his license was suspended for five days by the local issuing authority for an "hours" violation. Inasmuch as more than five years have elapsed since the prior violation and it being dissimilar in character, I shall not consider same in fixing the penalty to be imposed herein. The minimum suspension imposed in cases involving gambling where the licensee or his agent participated in the violation has been a suspension of the license for twenty days. Re Jankowski, Bulletin 992, Item 7. I shall suspend defendant's license for twenty days. Five days shall be remitted because of the plea entered herein, leaving a net suspension of fifteen days.

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

ORDERED that Plenary Retail Consumption License C-3, issued for the 1956-57 licensing period by the Common Council of the City of Burlington to Joseph Datti, t/a Datti's Bar, 647 High Street, Burlington, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. July 18, 1956, and terminating at 2:00 a.m. August 2, 1956.

WILLIAM HOWE DAVIS  
Director.

6. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against )

GEORGE DITCHEOS INDIVIDUALLY and )  
GEORGE DITCHEOS, JOHN DITCHEOS )  
and ALEXANDRIA DITCHEOS, EXECUTORS )  
OF THE ESTATE OF NICHOLAS DITCHEOS, )  
DECEASED )  
T/a OLD HIGHTS HOTEL )  
101-103 Main Street )  
Hightstown, N. J., )

CONCLUSIONS AND ORDER

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Holders of Plenary Retail Consumption )  
License C-2 for the 1955-56 licensing )  
period, issued by the Common Council of )  
the Borough of Hightstown; and trans- )  
ferred during the pendency of these )  
proceedings and renewed for the 1956-57 )  
licensing period to: )

GEORGE DITCHEOS and JOHN DITCHEOS, )  
Partnership )  
T/a OLD HIGHTS HOTEL, )

for the same premises. )

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Malandra & Tomaselli, Esqs., by Joseph Tomaselli, Esq., )  
Attorneys for Defendant-licensees. )  
William F. Wood, Esq., appearing for Division of Alcoholic )  
Beverage Control. )

BY THE DIRECTOR:

Defendants pleaded not guilty to the following charge:

"On or about April 14, 1955 and prior thereto, you 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."

At the hearing herein the Division submitted evidence that on April 14, 1955 and on dates prior thereto a State Trooper, investigating alleged gambling activities, placed horse race bets with a concessionaire in a restaurant which is part of defendants' licensed premises.

Defendants offered evidence tending to show that they had no knowledge of the concessionaire's illegal activities; that the restaurant was not under their control; that it was separated from the liquor establishment by a hallway; that it had its own entrance which bore a different address from that of the barroom; that activities occurring therein could not be observed from the barroom; and that upon being charged with the violation committed on the premises they promptly took steps to evict the restaurateurs. Defendants contend that because of the aforesaid they should be absolved from guilt.

Defendants are not charged with knowledge of or participation in the violations charged. The sole question to be determined is: Did they "permit and suffer" said violation in and upon their licensed premises?

"To permit is defined as meaning to authorize or to give leave (McHenry v. Winston, 49 S. W. Rep. 4), but the term 'permit' has been often used synonymously with 'suffer,' so that it may be said that one who suffers the doing of a thing which he might have prevented permits it. 22 Am. & Eng. Encycl. L. (2d ed.) 699, and cases there cited." Conner v. Fogg, 75 N.J.L. 245 (Sup. Ct. 1907). In Essex Holding Corp. v. Hock, 136 N.J.L. 28, the court said "\* \* \* the word 'suffer' \* \* \* imposes responsibility on a licensee, regardless of knowledge, where there is a failure to prevent the prohibited conduct by those occupying the premises with his authority. Guastamachio v. Brennan, 128 Conn. 356; 23 Atl. Rep. (2d) 140." In the instant case the concessionaire was authorized by the licensees to occupy the licensed premises. "When a privilege to enter is given, whether general, conditional or restricted, the licensee has the duty of taking such measures as the circumstances of the particular case require to prevent prohibited conduct on the licensed premises arising out of the grant of the privilege." Greenbrier, Inc. v. Hock, 14 N. J. Super. 39.

Basing his findings upon the above facts and legal principles, the Hearer in his recommended Conclusions stated, "I find that defendants, having failed in their duty to prevent the prohibited conduct on their licensed premises, are guilty as charged. However, after carefully considering the facts and circumstances herein and the prior good record of the licensees and their related predecessors, I conclude that the fifteen-day penalty usually imposed for a similar violation (prior to my announcement on January 16, 1956, Re Increased Penalties, Bulletin 1095, Item 1) should be modified. I shall suspend defendants' license for a period of ten days. Cf. Re Billy Urbanski, Inc., Bulletin 793, Item 3."

The Division Prosecutor, pursuant to Rule 6 of State Regulations No. 16, filed exceptions to the Hearer's Report alleging that the recommended penalty is inadequate and should be increased to fifteen days. Thereafter, defendants' attorney filed an answer to the exceptions and urged a reduction of the penalty to five days.

While the recommended penalty is not in accord with the minimum fifteen-day penalty heretofore imposed for a violation involving commercialized gambling, it will be noted that the facts in the instant case differ substantially from those in the reported gambling activity cases. Here, the restaurant was physically separated from the barroom, in which latter portion of the licensed premises the trooper called by the Division testified he found no evidence of gambling activities. In fact, the trooper testified that the bartender told him he had no knowledge of where a bet could be placed. It may also be noted that the Prosecutor in his closing remarks said, "I just want to state for the record our case is based on the exact words of the charge, allowing, permitting and suffering gambling activity. We do not charge and we had no evidence any of the Ditcheos actually participated in the gambling."

I assume that the Hearer considered the aforesaid as "mitigating circumstances" and while I do not entirely agree with his conclusions to that extent, nevertheless, the peculiar circumstances in the case might well justify favorable consideration. I shall, therefore, neither augment nor modify the recommended ten-day penalty.

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

ORDERED that Plenary Retail Consumption License C-2, issued for the 1956-57 licensing period by the Common Council of the Borough of Hightstown to George Ditchcos and John Ditchcos, Partnership, t/a Old Hights Hotel, 101-103 Main Street, Hightstown, be and the same is hereby suspended for a period of ten (10) days, commencing at 7:00 a.m. July 18, 1956, and terminating at 7:00 a.m. July 28, 1956.

WILLIAM HOWE DAVIS  
Director.

7. DISCIPLINARY PROCEEDINGS - HOLDER OF SOLICITOR'S PERMIT TRANSPORTED ALCOHOLIC BEVERAGES, NOT IN THE COURSE OF HIS EMPLOYER'S BUSINESS, IN VEHICLE LICENSED FOR USE IN EMPLOYER'S BUSINESS - PERMIT SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary )  
Proceedings against )

MARTIN BACHRACH )  
12 Garden Oval )  
Springfield, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Solicitor's Permit )  
No. 3319 for the 1956-57 )  
licensing year (in renewal of )  
Solicitor's Permit No. 3410 for )  
the last licensing year) issued )  
by the Director of the Division )  
of Alcoholic Beverage Control. )

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Budd, Larner & Kent, Esqs., by Samuel A. Larner, Esq., Attorneys  
for Defendant-Permittee.

William F. Wood, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he transported alcoholic beverages not pursuant to or within the terms of a license or a permit and not in the course of his employer's business, in an automobile licensed by a licensee (his employer), contrary to R. S. 33:1-2 and in violation of R. S. 33:1-50.

The facts concerning such prohibited conduct and the participation of the defendant therein are fully set forth in the disciplinary proceedings against Alfred and Dorothy Kurland (decided herewith). The transportation of sixty 4/5 quart bottles of whiskey, even if intended for personal consumption must be in a vehicle licensed for that purpose (R.S. 33:1-2); the transit insignia issued to Bachrach's employer did not furnish any authority for transportation of alcoholic beverages not in the course of the employer's business. In addition, defendant purchased the whiskey at a 10% discount, having full knowledge, certainly as a solicitor, that the maximum allowable discount was 5%. Such conduct on the part of a licensed solicitor indicates a lack of respect for the rules and regulations of the Division.

Defendant has no previous adjudicated record. Counsel urges that the unlawful transportation is such as could be committed by any member of the public at large and does not specifically involve a solicitor's activities as such. Aside from the penalties provided by law for such offense committed by any other person, a solicitor engaged in the liquor industry is

expected to conform strictly to all regulations and laws governing that industry. Indeed, if there were any probative evidence that Bachrach purchased the Scotch whisky for resale to other retailers since such whisky is frequently in short supply or if such whisky were intended for some use prohibited by the rules and regulations, a more severe penalty would be imposed. In the absence of such evidence and taking into consideration the plea entered herein, I shall suspend defendant's solicitor's permit for a period of twenty days. Re Freedman, Bulletin 889, Item 5.

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

ORDERED that Solicitor's Permit No. 3319 for the 1956-57 licensing year (in renewal of Solicitor's Permit No. 3410 for the last licensing year), issued by the Director of the Division of Alcoholic Beverage Control to Martin Bachrach, 12 Garden Oval, Springfield, be and the same is hereby suspended for a period of twenty (20) days, commencing at 9:00 a.m. July 18, 1956, and terminating at 9:00 a.m. August 7, 1956.

WILLIAM HOWE DAVIS  
Director.

8. DISCIPLINARY PROCEEDINGS - 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 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ANDREW BOSHART  
T/a CAVEN POINT TAVERN  
784-86-88 Garfield Avenue  
Jersey City 5, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-378 for the 1955-56 and 1956-57 licensing periods, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

James F. McGovern, Jr., Esq., Attorney for Defendant-licensee.  
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold alcoholic beverages in their original containers for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulations No. 38.

An ABC agent entered defendant's licensed premises at about 12:01 a.m. on June 7, 1956. Shortly thereafter the agent observed Charles Darr (the bartender) sell three quart-bottles of Piel's beer to a patron who then left the premises. The agent then purchased two quart-bottles of Piel's beer for off-premises consumption from the same bartender, left the premises, and joined two fellow agents who had been outside. The three agents immediately entered the licensed premises, identified themselves and spoke with Darr who verbally admitted the sales.

Defendant's counsel represents in alleged mitigation of the offense that it was committed by a new bartender, the regular

bartender then being on vacation. The agents report that Charles Darr is a part-time bartender who usually works Saturdays and Sundays but was on duty that morning in question because of a death in the family of the night bartender. It is also urged that the licensee is an elderly person who is not personally employed there and exercises no control but merely acts in a supervisory capacity. It is self-evident that he must be held responsible for any misconduct of the licensed business.

Defendant has a prior adjudicated record. Effective February 24, 1947, the then Deputy Commissioner suspended his license for ten days for a "refill" violation (Re Boshart, Bulletin 733, Item 3 and Bulletin 749, Item 2). (This dissimilar violation will be disregarded in fixing penalty because it was imposed more than five years ago. Re Weber, Bulletin 1115, Item 4.) Effective April 26, 1948, the local issuing authority suspended defendant's license for five days for an "hours" violation.

The usual penalty imposed for the violation herein is suspension of the license for a period of fifteen days (Re Barkey's Bar & Grill, Inc., Bulletin 1119, Item 8). However, since the prior "hours" violation occurred within the ten-year period but more than five years ago, I shall suspend defendant's license for a period of twenty days (Re Nicas, Bulletin 1116, Item 10). Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 13th day of July, 1956,

ORDERED that Plenary Retail Consumption License C-378, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Andrew Boshart, t/a Caven Point Tavern, for premises 784-86-88 Garfield Avenue, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. July 23, 1956, and terminating at 2:00 a.m. August 7, 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  
STEPHEN & CATHERINE KRYWUCKI  
T/a THE HAPPY BAR  
300-302 Broad Street  
Beverly, N. J.,

CONCLUSIONS  
AND ORDER

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) Holders of Plenary Retail Consumption License C-3 for the 1955-56 and 1956-57 licensing periods, issued by the Common Council of the City of Beverly.  
)

Stephen & Catherine Krywucki, Defendant-licensees, Pro se.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that on June 14, 1956 they sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic

beverages to a minor in and upon their licensed premises, in violation of Rule 1 of State Regulations No. 20.

Acting upon information obtained from the Burlington Township Police, an ABC agent questioned six minors (ages seven-teen to nineteen years) who were found in possession of a quantity of beer. The agent learned that only one of the minors, John ---, eighteen years of age, entered the premises in ques-tion and bought three cases of beer. This minor in an unsigned statement, given in the presence of his attorney and the local police, says that he went to The Happy Bar at Beverly and ordered three cases of beer; that he was sold two cases and told to return and buy the third a little later, which he did; that he was alone when he entered the premises; that he paid \$3.75 per case; and that no one questioned him about his age.

The minor then led the ABC agent and local police to the licensed premises where he identified Stephen Krywucki, one of the licensees, as the individual who sold him the beer, and Catherine Krywucki, the other licensee, as the person with whom he first spoke when he entered the premises. Stephen Krywucki then admitted he sold the three cases of beer to the minor and that he did not question him about his age.

Defendants have no prior adjudicated record. The minimum penalty for sale of alcoholic beverages to an 18-year-old minor subsequent to January 16, 1956 is fifteen days. Re Vecchione, Bulletin 1113, Item 2. I shall suspend defendants' license for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

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

ORDERED that Plenary Retail Consumption License C-3, issued for the 1956-57 licensing period by the Common Council of the City of Beverly to Stephen & Catherine Krywucki, t/a The Happy Bar, 300-302 Broad Street, Beverly, be and the same is hereby suspended for a period of ten (10) days, commencing at 1:00 a.m. July 23, 1956, and terminating at 1:00 a.m. August 2, 1956.

WILLIAM HOWE DAVIS  
Director.

10. 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 )  
HARRY GRAB )  
T/a HARRY'S INN )  
113 North Fairview Street )  
Riverside, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-9 for the 1955-56 )  
and 1956-57 licensing periods, )  
issued by the Township Committee )  
of the Township of Riverside. )

----- )  
Harry Grab, Defendant-licensee, Pro se.  
Dora P. Rothschild, appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging the sale of an alcoholic beverage at a price below the established minimum

therefor, in violation of Rule 5 of State Regulations No. 30.

On June 26, 1956, the defendant-licensee sold a pint bottle of Seagram's Seven Crown Blended Whiskey to an agent of this Division for \$2.50. The then currently effective price was \$2.83. After the sale was consummated the agent who made the purchase and another who witnessed the transaction identified themselves to the defendant who then admitted the aforesaid violation.

Defendant has a prior adjudicated record. Effective November 12, 1936, the local issuing authority suspended his license for two weeks for possessing opened bottles of alcoholic beverages on distribution licensed premises. However, since this dissimilar violation occurred more than five years ago, I shall not consider it in fixing a penalty herein. Re McCrory, Bulletin 1119, Item 4. I shall suspend defendant's license for the minimum period of ten days and remit five days for the plea entered herein, leaving a net suspension of five days. Re Levine, Bulletin 1104, Item 8.

Accordingly, it is, on this 23rd day of July, 1956,

ORDERED that Plenary Retail Consumption License C-9, issued for the 1956-57 licensing period by the Township Committee of the Township of Riverside to Harry Grab, t/a Harry's Inn, 113 North Fairview Street, Riverside, be and the same is hereby suspended for a period of five (5) days, commencing at 6:00 a.m. July 30, 1956, and terminating at 6:00 a.m. August 4, 1956.

WILLIAM HOWE DAVIS  
Director.

11. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - ALCOHOL ORDERED FORFEITED - CLAIM OF INNOCENT LIENOR RECOGNIZED.

In the Matter of the Seizure on ) Case No. 9139  
March 14, 1956 of 72 - 1/2 gallon )  
jars of alcohol and a Pontiac sedan, ) ON HEARING  
on the northbound lane of the New ) CONCLUSIONS AND ORDER  
Jersey Turnpike, at Mile Post 94, in )  
the Township of Woodbridge, County of )  
Middlesex and State of New Jersey. )

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Crummy, Consodine, Gibbons & O'Neill, Esqs., by John J. Gibbons, Esq., Attorneys for Chemical Corn Exchange Bank.  
Bertram C. Bland, Esq., Attorney for Russell Cooley.  
I. Edward Amada, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether 72 half-gallon jars of alcohol, and a Pontiac sedan, described in a schedule attached hereto, seized on March 14, 1956 on the New Jersey Turnpike at Mile Post 94, Woodbridge, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R. S. 33:1-66, an appearance was entered on behalf of Chemical Corn Exchange Bank, which sought recognition of its alleged lien on the Pontiac sedan. An appearance was also entered on behalf of Russell Cooley, the registered owner of the motor vehicle. His counsel stated that such appearance was not for the purpose of presenting any independent claim to the car but merely to be

Reports of ABC agents and other documents in the file, presented in evidence with consent of counsel for the above mentioned parties, disclose the following facts:

On the above date and location, a New Jersey State Trooper halted the motor vehicle during the course of his routine patrol of traffic on the highway. The trooper ascertained that the motor vehicle was being operated by Russell Cooley, its registered owner, with two other men passengers therein. When the trooper discovered the above mentioned jars of alcohol, without any tax stamps thereon indicating the payment of taxes on alcoholic beverages, in the car, he took into custody the three men, the alcohol and the motor vehicle. Later, the alcohol and motor vehicle were turned over to ABC agents.

A portion of the contents of one of the jars was analyzed by the Division chemist, who reports that it is alcohol and water fit for beverage purposes, with an alcoholic content by volume of 49.3 per cent.

Signed sworn statements from Russell Cooley and his companions relate that the three men purchased the alcohol from a person unknown to them on a street corner in Lawrenceville, Virginia.

The evidence presented establishes that the alcoholic beverages are illicit because of the absence of any tax stamps on any of the jars, and further because the manner in which they were purchased indicates that it was bootleg alcohol. R. S. 33:1-1(i), R.S. 33:1-88. Such illicit alcohol and the motor vehicle in which it was transported and found constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y), R. S. 33:1-2, R.S. 33:1-66.

The Chemical Corn Exchange Bank presented in evidence a conditional sales contract dated March 1, 1955, which the bank holds by assignment. The contract, signed by Russell Cooley, evidences the conditional sale of the Pontiac sedan in question for the sum of \$3,476.88, with an unpaid balance thereon of \$3,116.88. The present balance due thereon, after rebate for prepayment is \$1,856.49.

Before accepting the contract and extending credit to Russell Cooley, the bank received information that he was thirty-five years of age, resided at an address in New York City for a number of years, was the owner of a fruit and grocery store located at another New York City address, which he conducted for seven years, was single, and had an approximate weekly income of \$90.00. The bank was also furnished with various business and personal references.

The bank checked with a dairy, one of the references, which advised that Cooley was a good customer; and with three credit bureaus which advised that Cooley's record was clear. The bank did not receive any derogatory information concerning Cooley from these sources. It also confirmed by reference to the telephone directory that Cooley was listed as a grocer at the address given.

It appears from the records of the Division, stipulated in evidence by counsel, that on November 16, 1950, Russell Cooley was apprehended transporting taxpaid alcoholic beverages in this State without a requisite license or permit from the Division, pleaded non vult to criminal charges resulting from such transportation, and was fined \$100.00. The evidence further

discloses Russell Cooley's arrest in 1949 in New York for an alleged violation of the Alcoholic Beverage Law, and his discharge on his own recognizance on November 21, 1949.

The evidence presented indicates that the bank made an adequate independent investigation of Russell Cooley's background and activities, but did not make any investigation concerning his criminal record. The representative of the bank states that no such investigation is made by the bank unless its usual check discloses some facts which alert it to the possibility that the applicant has a criminal record, and that no such facts existed in the instant case.

As I stated in Seizure Case No. 8682, Bulletin 1045, Item 8, where a reasonable credit inquiry, such as an ordinary prudent person should be expected to make, fails to reveal any fact or suspicious circumstance tending to indicate that the purchaser of an automobile is of ill repute, no arbitrary requirement should properly be placed upon an automobile finance company to include inquiry of the Chief of Police or other law enforcement official concerning any record of the proposed purchaser before acquiring its lien upon an automobile.

Under the circumstances here presented, I shall recognize the lien claim of the Chemical Corn Exchange Bank in the amount of \$1,856.49.

It appears that the appraised retail value of the Pontiac sedan does not exceed the amount of the lien claim and the costs of its seizure and storage. The motor vehicle will, therefore, be returned to the Chemical Corn Exchange Bank upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 23rd day of July 1956, Chemical Corn Exchange Bank pays the costs incurred in the seizure and storage of the Pontiac sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to it; and it is further

DETERMINED and ORDERED that the alcoholic beverages listed in the aforesaid Schedule "A" constitute unlawful property and the same be and hereby are forfeited in accordance with the provisions of R. S. 33:1-66 and that they be retained for the use of hospitals and State, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS  
Director.

Dated: July 11, 1956.

SCHEDULE "A"

- 72 - one-half gallon jars of alcohol
- 1 - Pontiac sedan, Serial and Engine No.  
L755H12630, New York Registration BN3025

12. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

JULIUS BREGMAN )  
131 West Market Street )  
Newark 3, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-90, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )

-----)  
Julius Bregman, Defendant-licensee, Pro se.  
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging the sale of an alcoholic beverage at a price below the established minimum therefor, in violation of Rule 5 of State Regulations No. 30.

On June 28, 1956 the defendant-licensee sold a one-half gallon bottle of Gallo California Zinfandel Wine to an agent of this Division for \$1.25 and deposited the money in a cash register. The then currently effective price was \$1.39. After the sale was consummated the agent who made the purchase and another who joined him shortly thereafter identified themselves to the defendant. The licensee, when asked if he charged \$1.25 for the wine, answered "It should be \$1.39, I think I rang up \$1.39, I don't know." There was no recording tape in the cash register.

Defendant has a prior adjudicated record. Effective April 26, 1943, the local issuing authority suspended his license for ten days for sale to a minor. However, since this dissimilar violation occurred more than five years ago, I shall not consider it in fixing a penalty herein. Re McCrory, Bulletin 1119, Item 4. I shall suspend defendant's license for the minimum period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Levine, Bulletin 1104, Item 8.

Accordingly, it is, on this 26th day of July, 1956,

ORDERED that Plenary Retail Distribution License D-90, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Julius Bregman, 131 West Market Street, Newark, be and the same is hereby suspended for a period of five (5) days, commencing at 9:00 a.m. August 6, 1956, and terminating at 9:00 a.m. August 11, 1956.

New Jersey State Library

William Howe Davis  
Director.