

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

November 7, 1960

BULLETIN 1360

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - THE ORIGINAL TAVERN OWNERS ASSOCIATION v. NEWARK AND HOME LIQUORS.
2. APPELLATE DECISIONS - T & K LIQUOR STORE v. TOWNSHIP OF DELAWARE.
3. DISCIPLINARY PROCEEDINGS (Morris Township) - GAMBLING - LOTTERY - CONTRACEPTIVES - LICENSE SUSPENDED FOR 35 DAYS.
4. DISCIPLINARY PROCEEDINGS (East Paterson) - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (South Plainfield) - SALES TO MINORS - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Paterson) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD - THIRD SIMILAR VIOLATION - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Fair Haven) - SALE TO MINOR - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Jersey City) - CONDUCTING BUSINESS AND PERMITTING PERSONS OTHER THAN EMPLOYEES ON PREMISES DURING PROHIBITED HOURS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Irvington) - GAMBLING - LICENSE SUSPENDED FOR 10 DAYS.
10. DISCIPLINARY PROCEEDINGS (Barnegat Light) - SALES TO MINORS - LICENSE SUSPENDED FOR 30 DAYS, EFFECTIVE DATES TO BE FIXED BY FURTHER ORDER.

Handwritten text at the top of the page, possibly a title or header.

Handwritten text on the right side of the page, possibly a date or page number.

Handwritten text block, likely a paragraph or section of notes.

Handwritten text block, likely a paragraph or section of notes.

Handwritten text block, likely a paragraph or section of notes.

Handwritten text block, likely a paragraph or section of notes.

Handwritten text block, likely a paragraph or section of notes.

Handwritten text block, likely a paragraph or section of notes.

Handwritten text block, likely a paragraph or section of notes.

Handwritten text block, likely a paragraph or section of notes.

Handwritten text block, likely a paragraph or section of notes.

Handwritten text block, likely a paragraph or section of notes.

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

November 7, 1960

BULLETIN 1360

1. APPELLATE DECISIONS - THE ORIGINAL TAVERN OWNERS ASSOCIATION  
v. NEWARK AND HOME LIQUORS.

THE ORIGINAL TAVERN OWNERS )  
ASSOCIATION OF NEWARK, )

Appellant, )

v. )

MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY )  
OF NEWARK, AND HOME LIQUORS )  
(A CORP.), )

Respondents. )

ON APPEAL  
CONCLUSIONS  
AND ORDER

-----  
Matthew P. Boylan, Esq., Attorney for Appellant.

Vincent P. Torppey, Esq., by James E. Abrams, Esq., Attorney for  
Respondent Municipal Board.

Abe W. Wasserman, Esq., Attorney for Respondent Home Liquors.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Municipal Board, on May 3, 1960, whereby it transferred a plenary retail consumption license (C-443, with broad package privileges) from Kelly's Sea Food & Chop House, Inc. to respondent Home Liquors, and from 26-28 Park Place & 3 Saybrook Pl. to 927-929 Franklin Avenue, Newark.

"In its petition of appeal appellant alleges that the action of respondent Board was erroneous because (a) it was contrary to R.S. 33:1-12.16; (b) it was contrary to R.S. 33:1-12.23 and (c) it was tantamount to the creation of a new plenary retail distribution license.

"It is clear that there is no merit to (a) because the board merely granted a transfer of an existing plenary retail consumption license, with broad package privileges.

"As to (b): The transcript of testimony taken at the hearing before respondent Board was admitted in evidence herein. It appears that at said hearing the attorney for respondent Home Liquors stated that his client intended to exercise only the privilege of selling alcoholic beverages in original containers for off-premises consumption. It seems to be clear that the members of the Board relied upon said representation when they granted the transfer, although the resolution granting the transfer contains no express condition as to such limitation and no such condition was endorsed upon the license certificate at the time of transfer or upon the renewed license certificate thereafter issued for the 1960-61 licensing year.

"In Petrangeli v. Barrett, 33 N.J. Super. 378 (App. Div. 1954), the Court said:

'A license with a broad package provision is distinct from one without such privilege and grants the holder thereof more extensive rights.'

"The point raised herein was fully considered in Union Coun Retail Liquor Stores Assn. v. Elizabeth et al., Bulletin 886, Item Therein the then Director affirmed the action of the Board whereby it transferred a similar license and, with reference to the effect of R.S. 33:1-12.23 (P.L. 1948, c. 98, sec. 1), said:

'Prior to the enactment of P.L. 1948, c. 98, a plenary retail consumption license entitled the holder to sell alcoholic beverages in original containers for off-premises consumption and to sell by the glass or other open receptacle for on-premises consumption. The plenary retail consumption licensee could do one or the other or both. (South Jersey Retail Liquor Dealers Association v. Burnett, 125 N.J.L. 105; Sup. Ct. 1940). As I interpret the proviso in Section 1 of P.L. 1948, c. 98, the words "as heretofore" do not relate to any delimitation with respect to a distinction between an exclusive package store operation on the one hand or a "combination" operation on the other, or to the prior extent of the package store operation, but related, instead and without distinction, to continuation of the prior "double" privilege held by a plenary retail consumption licensee under R.S. 33:1-12(1) - the privilege of conducting, under his license, bar and package store businesses in combination, or either of such businesses.'

"The argument in the brief of appellant's attorney in favor of applying a different meaning to the words 'as heretofore' is without merit.

"As to (c): The transfer has not converted the license to a plenary retail distribution license. The transferee merely has the same rights and privileges thereunder which the transferor previously had. If, as argued, this may lead to undesirable results, further legislation to correct such results would be required. In the present case it is sufficient to rule that the transfer granted was not in violation of the cited sections of the Alcoholic Beverage Law, as written and construed.

"After considering the evidence and the briefs submitted herein, it is recommended that an order be entered herein affirming the action of respondent Board and dismissing the appeal."

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

After carefully considering the evidence, exhibits and briefs submitted, I concur in the Hearer's findings and conclusions which I hereby adopt as my conclusions herein.

Accordingly, it is, on this 26th day of September, 1960,

ORDERED that the action of respondent Municipal Board be and the same is hereby affirmed, and that the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS  
DIRECTOR

2. APPELLATE DECISIONS - T & K LIQUOR STORE v. TOWNSHIP OF DELAWARE.

T & K LIQUOR STORE, t/a "T & K LIQUOR STORE," )

Appellant, )

v. )

ON APPEAL ORDER

BOARD OF COMMISSIONERS OF THE TOWNSHIP OF DELAWARE (Camden County), )

Respondent. )

-----  
Daniel B. Toll, Esq., Attorney for Appellant.  
Warren C. Douglas, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent whereby on July 19, 1960, respondent denied an application filed by appellant for the transfer of its License D-6 from Route 70 and Cornell Avenue to a location in the 1600 block of Kings Highway, Delaware Township.

Prior to the hearing of the appeal the attorney for appellant advised me in writing that he desired to withdraw the appeal and that the attorney for respondent had consented to said withdrawal. No reason appearing to the contrary,

It is, on this 15th day of September 1960,

ORDERED that the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS  
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - CONTRACEPTIVES - LICENSE SUSPENDED FOR 35 DAYS.

In the Matter of Disciplinary Proceedings against )

ISAAC MARTIN )  
t/a THE POST WAR CLUB )  
249 Evergreen Avenue )  
Morris Township, PO Morristown, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-6 (for the 1959-60 and 1960-61 licensing years) issued by the Township Committee of Morris Township. )

-----  
Young and Sears, Esqs., by Harry L. Sears, Esq., Attorneys for Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer filed the following Report herein:

"Defendant pleaded not guilty to the following charges:

- '1. On February 9 and 18, 1960, you allowed, permitted and suffered gambling, viz., the making and accepting of bets in a lottery, commonly known as the "numbers game", in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.
- '2. On February 9 and 18, 1960, 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.
- '3. On February 18, 1960, you possessed, had custody of and allowed, permitted and suffered tickets and participation rights in lotteries, viz., so-called "numbers" slips, "sweepstake" tickets and "raffle" and "drawing" tickets, in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20.
- '4. On February 18, 1960, you possessed prophylactics against venereal disease and contraceptives and contraceptive devices in and upon your licensed premises; in violation of Rule 9 of State Regulation No. 20.'

"The basis for the charges as appears from the testimony of two ABC agents is as follows: One of the agents entered defendant's licensed premises on February 9, 1960. Oralee Bush was tending bar and served the agent with a bottle of beer. While being served the agent told her he desired to place a 'numbers' bet and asked her whether any of the 'fellows' were around. She replied that he just missed one as he was coming in. The agent then went to the rest room and returned to the bar within a short time. He observed that Mrs. Bush had placed a writing pad and

pen near his bottle of beer. The agent wrote two numbers on the pad representing a bet of \$1.50. He then handed the pad with the number and \$1.50 to Mrs. Bush. She asked the agent his name and wrote the initials of the name he had given her on the pad and placed the slip with the numbers and the money in her pocket. The agent then left the premises.

"The agent returned to the premises on February 18th at which time he had in his possession three one-dollar bills identified by serial numbers and a slip of paper on which was noted three numbers bets in the amount of three dollars. Mrs. Bush was tending bar. The agent told Mrs. Bush that he had some numbers to play. She looked at the clock and said it was too late -- that the man had already picked up such bets. The agent then told Mrs. Bush that he was satisfied to have his bet placed the next day. Thereupon he handed the slip with the numbers bet and the three marked bills to Mrs. Bush. She opened a drawer behind the bar, took out a black purse, placed the slip and dollar bills therein and returned the purse to the drawer. The agent purchased a bottle of beer, drank part of such beer and left the premises and joined three fellow agents and two local police officers who were stationed outside the premises.

"These officers entered the premises and the agent in question returned in about fifteen minutes, at which time the agent indicated to the officers the drawer in question as the place where they would find the numbers bets. One of the agents opened such drawer, removed the purse in question and found therein the agent's numbers slip and the aforesaid three one-dollar bills.

"During the course of the investigation by the ABC agents, Mrs. Bush, upon request, surrendered three numbers bets slips which she had on her person and the agents discovered an Irish Sweepstakes ticket and four sweepstakes ticket stubs in the drawer; an Irish sweepstakes ticket book with stubs therein upon which various names were noted and \$15.00 and three numbers slips in the vicinity of the cash register.

"The licensee arrived on the scene, opened his safe located in the barroom and the agents found therein fifteen numbers bet slips and a sweepstakes stub and a package containing two contraceptives. In addition, the licensee surrendered from his person fifteen numbers slips evidencing various numbers bets.

"Mrs. Bush testified on the licensee's behalf that she is employed by her brother, the licensee; that to her recollection she saw the agent on only one occasion - February 18th; that on that day after the agent paid for his drink he asked her as a favor to accept a numbers bet and that she refused; that as the agent walked out of the door, she noted that he had left the dollar bills on the bar; that she then placed these bills in her purse for safe keeping and noticed some slips on the floor which she picked up and placed in her pocket and at that point the officers entered; that she had no knowledge of the presence of sweepstakes tickets or numbers slips found near the register or of the numbers slips found in the purse.

"Isaac Martin, the licensee, testified that the numbers slips and sweepstakes tickets represented personal bets and that he never permitted or carried on any gambling activity in the licensed premises; that the \$15 represented room rent left by one of the roomers; that the contraceptives were left in the premises by his son and that the person who sold him the sweepstakes ticket left the book on the premises.

"His son testified that he left contraceptives in the safe but could not say with certainty that the specific contraceptives found therein belonged to him.

"A former mayor who was also a police commissioner of the Township, testified that he served in official capacity in the municipality for a period of twelve years and during that period received no complaints of misconduct of the defendant's licensed business and that Isaac Martin's reputation in the community was that of a very honest man.

"On the basis of the evidence presented, it is abundantly clear that the defendant licensee is guilty of all charges and I recommend a finding to that effect. The specious explanations offered by Mrs. Bush and the licensee are merely fumbling attempts to avoid responsibility for accepting the bets. The mere presence of the sweepstakes tickets and contraceptives on licensed premises is a violation of the respective rules.

"Defendant has no prior adjudicated record. I recommend that defendant's license be suspended for the minimum period of twenty-five days on Charges 1, 2, and 3, inasmuch as commercialized gambling is involved and participated in by the licensee's employee, and for the minimum period of ten days on Charge 4, making a total suspension of thirty-five days. Re Ganser's Tavern, Inc., Bulletin 1313, Item 2."

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

After carefully considering the facts and circumstances herein, I concur in the findings and conclusions of the Hearer and adopt his recommendation. I therefore find the defendant-licensee guilty of the four charges herein set forth.

Accordingly, it is, on this 13th day of September 1960,

ORDERED that Plenary Retail Consumption License C-6, for the 1960-61 licensing year, issued by the Township Committee of Morris Township to Isaac Martin, t/a The Post War Club, for premises 249 Evergreen Avenue, Morris Township, be and the same is hereby suspended for thirty-five (35) days, commencing at 1:00 a.m., Tuesday, September 20, 1960, and terminating at 1:00 a.m., Tuesday, October 25, 1960.

WILLIAM HOWE DAVIS  
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

LEONARD & MILDRED ORBIN  
107 Broadway  
East Paterson, N. J.

CONCLUSIONS  
AND ORDER

-----  
Holders of Plenary Retail Distribution License D-6, issued by the Borough Council of the Borough of East Paterson.

-----  
Defendant-licensees, by Leonard Orbin, Partner.  
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendants pleaded guilty to the following charge:

"On or about April 11, 1959, in or about December 1959 and on or about February 25 and March 4, 1960, you sold at retail several bottles and cases of various brands of alcoholic beverages at less than the prices thereof listed in the then currently effective Minimum Resale Price List published by the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30."

The investigation in this case discloses that on the dates set forth in the charge herein the licensees sold at retail numerous cases and bottles (in excess of 12 cases) of alcoholic beverages below the minimum consumer resale prices thereof as set forth in the then currently effective Minimum Consumer Resale Price List. The delivery tickets substantiating the aforesaid unlawful sales were found among the records of the licensees.

The defendants have no prior adjudicated record. The minimum penalty for a violation of this kind is ten days. However, because of the large amount of alcoholic beverages sold, I shall suspend defendants' license for twenty days. Re Bortlein, Bulletin 1349, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 15th day of September 1960,

ORDERED that Plenary Retail Distribution License D-6, issued by the Borough Council of the Borough of East Paterson to Leonard & Mildred Orbin, for premises 107 Broadway, East Paterson, be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m. Monday, September 26, 1960, and terminating at 9:00 a.m. Tuesday, October 11, 1960.

WILLIAM HOWE DAVIS  
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

SPINELLI'S BOULEVARD INN, INC. )  
t/a SPINELLI'S BLVD. INN )  
401 Hamilton Boulevard )  
South Plainfield, N.J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of South Plainfield. )

-----  
Michael A. Patricchio, Esq., Attorney for Defendant-licensee.  
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on July 28, 1960 it sold, served and delivered alcoholic beverages to a 15-year-old and a 19-year-old minor and permitted the consumption of such alcoholic beverages on the licensed premises by said minors, in violation of Rule 1 of State Regulation No. 20.

Acting upon information obtained from the local police authorities, ABC agents obtained signed and sworn statements from 19-year-old Alfred --- and 15-year-old Cathy --- and Thomas ---, another minor, who accompanied Alfred and Cathy.

The substance of these statements is that about 9:00 p.m. on July 28, 1960, the minors arrived at defendant's licensed premises in a motor vehicle; that Alfred and Cathy left the vehicle, entered the premises, took seats at the bar and ordered, were served with and consumed a number of drinks of alcoholic beverages served to them by the bartender and that before they left the premises, Alfred purchased, for off-premises consumption, twelve cans of beer, which he placed in the car.

It appears that thereafter Alfred, Cathy and Thomas accompanied ABC agents to defendant's licensed premises which they identified as the establishment in question and Alfred and Cathy identified the bartender who had sold and served alcoholic beverages to them.

The bartender admitted that he sold alcoholic beverages to Alfred on this and other occasions relying upon the fact that Alfred allegedly had presented a driver's license and a birth certificate of a person 21 years of age. The bartender denied any sale or service of alcoholic beverages to Cathy.

Alfred stated that he found a wallet containing various cards of identification of some other person and retained them but did not display them to the bartender. Both Alfred and Cathy denied that they had been questioned at any time concerning their ages.

Defendant has no previous adjudicated record. The matters urged in alleged mitigation of the violation do not warrant the imposition of less than the minimum penalty in cases of this nature. I shall suspend defendant's license for a period of

thirty days, the minimum penalty for sale to two minors, one of whom is but 15 years of age. Re Zipko, Bulletin 1161, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 20th day of September, 1960,

ORDERED that Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of South Plainfield to Spinelli's Boulevard Inn, Inc., t/a Spinelli's Blvd. Inn, for premises 401 Hamilton Boulevard, South Plainfield, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m., Monday, September 26, 1960, and terminating at 2:00 a.m., Friday, October 21, 1960.

WILLIAM HOWE DAVIS  
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD - THIRD SIMILAR VIOLATION - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

VERONICA SADA )  
t/a TONY'S TAVERN )  
218 Twelfth Avenue )  
Paterson 1, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-109, issued by the Board of Alcoholic Beverage Control for the City of Paterson. )

-----  
Louis E. Saunders, Esq., Attorney for Defendant-licensee.  
Dora P. Rothschild, Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that she sold during prohibited hours an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

At 2 p.m. Sunday, August 7, 1960, an ABC agent visited the defendant's licensed premises wherein he observed the licensee make four sales of alcoholic beverages for off-premises consumption. At 2:15 p.m. the agent ordered a pint bottle of Hunter whiskey "to go" and the licensee took from a cabinet a sealed pint bottle of the brand requested, handed it to the agent and picked up three one-dollar bills from the agent's currency on the bar, but did not ring up the sale on the cash register. The agent left with his purchase, contacted a fellow agent who had remained outside. Both agents entered the premises and, identifying themselves, informed the licensee of the violation. The licensee admitted making the unlawful sale.

Defendant has a prior adjudicated record. Effective May 7, 1956, and March 3, 1958, her license was suspended by this Division for ten and twenty-five days, respectively, for sales during prohibited hours. Re Sada, Bulletin 1112, Item 12, and Bulletin 1217, Item 4. The violation charged herein is the third of a series of similar violations committed within a period of five years and might well be considered as evidencing a con-



of the store; that Liza then entered the store, told the employee to carry out the alcoholic beverages to the side where the car was parked and such employee followed this instruction and placed the alcoholic beverages in the trunk of the car; that the clerk asked her if she was 21 and she answered "yes" and when asked for proof thereof, she told him that she did not have it with her and the clerk did not ask her to sign any written representation as to her age; that both groups were driven to a party where the alcoholic beverages were consumed by the minors.

It further appears that Liza accompanied ABC agents to the defendant's licensed premises which she identified as the establishment where she purchased the beer and vodka and identified Bertrand Rountree as the person from whom she purchased such beverages.

The 17-year-old boy who drove the car to the side of the building, in his statement, confirms Liza's account that she came around the corner of the building accompanied by the store employee carrying the beer and vodka and that the boy opened the trunk of the car and the employee placed the alcoholic beverages therein. The statements of other members of the group relate their presence at the premises and describe so much of the incident as they observed.

Later, Bertrand Rountree, the clerk, and Louis Soden, the employee who carried the alcoholic beverages to the car, admitted that the facts are as above recited so far as they participated in the incident. Mr. Rountree admitted previous sales of alcoholic beverages to this 14-year-old minor within the previous two months, merely contenting himself with asking whether she was 21 and without requiring any proof thereof.

Our investigation indicates that Liza's appearance is that of a 14 or 15-year-old girl.

Counsel for the licensee, when entering the non vult plea, urged in mitigation that the corporate officers are held in highest regard in the community and are considered of the finest reputation, as attested by various letters to that effect from residents of the community. Such reputation, however, does not warrant the imposition of less than the minimum penalty for such a serious violation committed by an employee of defendant, who also admitted previous sales of alcoholic beverages to the same minor.

Defendant has no prior adjudicated record. I shall suspend its license for thirty-five days, the minimum penalty for selling to a 14-year-old minor. See Re Cutillo, Bulletin 1133, Item 3, and announcement concerning penalties, Re Increased Penalties, Bulletin 1095, Item 1. Five days will be remitted for the plea herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 22nd day of September 1960,

ORDERED that Plenary Retail Distribution License D-1, issued by the Mayor and Council of the Borough of Monmouth to The Cellar, Inc., for premises 570 River Road, Fair Haven, be and the same is hereby suspended for thirty (30) days, commencing at 9:00 a.m., Monday, October 3, 1960, and terminating at 9:00 a.m., Wednesday, November 2, 1960.

WILLIAM HOWE DAVIS  
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AND PERMITTING PERSONS OTHER THAN EMPLOYEES ON PREMISES DURING PROHIBITED HOURS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

JOHN G. CONNOLLY AND ARTHUR COFFEY )  
t/a C & C TAVERN )  
25 Jackson Avenue )  
Jersey City, N. J. )

CONCLUSIONS AND ORDER

-----  
Holders of Plenary Retail Consumption License C-337, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

Defendant-licensees, Pro se.  
Dora P. Rothschild, Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to charges alleging that (1) they conducted their licensed business during prohibited hours, and (2) they suffered and permitted persons other than their actual employees and agents in and upon their licensed premises during prohibited hours, both in violation of a local ordinance.

On Sunday, August 21, 1960, between 2:01 and 2:25 a.m., each of two ABC agents at defendants' licensed premises was served three glasses of beer and observed the bartender dispense two mixed drinks after 2 a.m. to a male patron seated at the bar.

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

Defendants have no prior adjudicated record. I shall suspend their license for fifteen days, the minimum suspension for an "hours" violation. Re DeCarlo, Bulletin 1128, Item 2. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 22nd day of September 1960,

ORDERED that Plenary Retail Consumption License C-337, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to John G. Connolly and Arthur Coffey, t/a C & C Tavern, for premises 25 Jackson Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, October 3, 1960, and terminating at 2 a.m. Thursday, October 13, 1960.

WILLIAM HOWE DAVIS  
DIRECTOR

## 9. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary  
Proceedings against

CHRISTIAN S. KNUDSEN  
t/a CHRIS' TAVERN  
850-852 - 18th Avenue  
Irvington 11, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption  
License C-5, issued by the Board of  
Commissioners of the Town of Irvington.

-----  
George A. Costello, Esq., Attorney for the Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charge:

'During the early morning hours of Saturday, May 28 and on Friday night, June 10 and early morning hours of Saturday, June 11, 1960, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the playing of a "shuffle-alley" machine game on the former occasion and the playing of a "dart" game on the latter occasion, for stakes of money; in violation of Rule 7 of State Regulation No. 20.'

"At the hearing held herein two ABC agents testified that on May 27, 1960, at about 11:50 p.m., they entered the defendant's licensed premises and took seats at the bar which was being tended by Louis Tartaglia; that from about 12:00 midnight to about 1:40 the next morning, they observed three patrons play six games on a shuffle alley machine; that at the end of each game they observed two of the contestants each pay \$1.00 to the third player who had scored the highest number of points as shown on the machine. The agents further testified that on one occasion, Tartaglia was standing behind the bar opposite the three patrons while money was being passed between them and that Tartaglia had inquired of them about their luck.

"The agents further testified that on June 10, 1960, at about 10:25 p.m., they returned to the licensed premises; that they took positions at the bar alongside of twelve patrons who were being served by Tartaglia; that between 11:55 p.m. and 12:02 a.m., they observed four patrons competing with each other in two games of darts, followed by a third game with five players; that they witnessed the winner of each game (the one to hit the 'bull's eye' first) collect \$2.00 from each of the other participants.

"In addition, one agent (3) testified that following the first and third games he alerted Tartaglia to the aforesaid gambling activities and that Tartaglia took no action with respect thereto.

"The agents further testified that at about 12:05 a.m., while a fourth game was in progress, they identified themselves

to Tartaglia; that at the conclusion of this game they directed his attention to the players while the winner was being paid \$2 from each of his opponents and that Tartaglia articulated 'What if they are playing for money? What is wrong with that? Every tavern has gambling'.

"On cross-examination the agents reiterated the pertinent parts of their direct examinations.

"Louis J. Tartaglia, on behalf of the defendant, testified that for the past one and one-half years he has been employed as a bartender on the defendant's licensed premises; that during said period of time none of the patrons to his knowledge ever engaged in any gambling activities on the licensed premises; that he was on duty on the dates set forth in the charge herein; that on June 11, 1960 one of the agents twice stated to him that patrons were playing the dart board for money stakes; that in each instance he informed the agents that the men were not gambling; that following the agents' identification, he stopped the dart board games at their request and denied he had stated to the agents that he engages in gambling activities with the patrons.

"On cross-examination, Tartaglia denied that Agent S directed his attention to the passing of money between the players and stated that he did not observe any gambling at the dart board.

"In the brief submitted by defendant's attorney, it is contended, in effect, that (1) defendant's guilt has not been proven beyond a reasonable doubt and (2) defendant had no knowledge of the gambling activities set forth in the charge.

"As to the first contention, it has been long established that disciplinary proceedings are civil and not criminal in nature, and it is sufficient that the guilt of the licensee be proven by a preponderance of the believable evidence. Re Fahrenberg, Bulletin 1253, Item 10, and cases cited therein.

"With reference to the licensee's second contention, I believe the testimony of the agents that, on their first visit, the bartender inquired of the patrons as to their luck and that, on their second visit, one of the agents alerted the bartender as to the gambling activities.

"I have carefully considered the testimony adduced herein, together with the brief filed on behalf of the licensee, and find that, notwithstanding the exhaustive cross-examination of the Division's witnesses, their testimony remained unshaken. Under the circumstances, I conclude that the Division has sustained the burden of proof of defendant's guilt by a fair preponderance of the believable evidence. Since the licensee cannot escape the consequences of the acts of his agents (Rule 33 of State Regulation No. 20), it is recommended that the defendant be found guilty as charged.

"Defendant has no prior adjudicated record. Since there is no evidence that defendant or any agent or employee of defendant participated in the gambling activities and the violation does not involve commercialized gambling, it is further recommended that an order be entered suspending defendant's license for ten days. Cf. Re Woodlawn Bar & Grill, Inc., Bulletin 990, Item 4, and Re Cioban, Bulletin 1336, Item 9."

Written exceptions to the Hearer's Report and written argument as to said exceptions were filed by the attorney for defendant but he subsequently advised me that he desired to withdraw his exceptions.

After carefully considering the testimony herein and the Hearer's Report, I concur in the Hearer's findings and shall adopt his recommendations. I find defendant guilty as charged.

Accordingly, it is, on this 26th day of September 1960,

ORDERED that Plenary Retail Consumption License C-5 issued by the Board of Commissioners of the Town of Irvington to Christian S. Knudsen, t/a Chris' Tavern, for premises 850-852 - 18th Avenue, Irvington, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, October 3, 1960, and terminating at 2:00 a.m., Thursday, October 13, 1960.

WILLIAM HOWE DAVIS  
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 30 DAYS, EFFECTIVE DATES TO BE FIXED BY FURTHER ORDER.

In the Matter of Disciplinary Proceedings against )

ADAM KUBELCZIKAS AND HELEN KUBELCZIKAS  
t/a "KUBEL'S BAR & GRILL"  
S/e corner 7th Street & Bayview Avenue  
Barnegat Light Borough, N. J. )

CONCLUSIONS  
AND ORDER

-----  
Holders of Plenary Retail Consumption License C-2, issued by the Borough Council of Barnegat Light Borough. )

Julius Robinson, Esq., Attorney for Defendant-licensees.  
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charge:

"On July 14 and 15, 1960, and on two occasions during the month prior thereto you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Allan ---, age 16, and Michael ---, age 18, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

Acting upon information obtained from the Police Department of Long Beach Township, ABC agents obtained signed, sworn statements from Allan ---, age 16, and Michael ---, age 18.

In his statement Michael --- says that he, alone, entered defendants' premises on July 14, 1960, purchased and consumed one glass of beer and left. He further says that on the evening of July 15, 1960, he, accompanied by Allan --- and another person, drove to the vicinity of and parked his car near defendants' premises; that Allan, alone, entered the premises and returned to the car with three six-pack cans of beer; that the three persons in his car were arrested by the police after they had consumed

most of the beer.

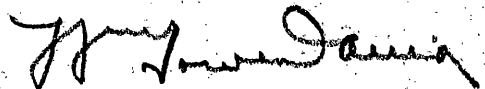
In his statement Allan --- says that on the evening of July 15, 1960, at about 8:30 p.m., he left Michael's car, entered defendants' premises and purchased from Joseph P. Nooney (a bartender) three six-pack cans of beer which he carried to the car. He also says that he had purchased alcoholic beverages in defendant's premises on several occasions during the prior month.

Defendants have a prior record. Effective September 5, 1951, their license was suspended for fifteen days for selling to minors and employing a non-resident without proper permit (Bulletin 916, Item 5), and effective September 14, 1959, their license was suspended for ten days for possessing alcoholic beverages not truly labeled (Bulletin 1302, Item 8). In attempted mitigation defendants' attorney alleges that neither licensee was present when the violations occurred and that the bartender had received strict instructions from the licensees not to serve minors. This, of course, constitutes no defense and will not be considered as a mitigating factor. See Rule 33 of State Regulation No. 20. The minimum penalty for selling alcoholic beverages to two minors, one of whom is only 16 years of age, is twenty-five days. Re Pine Liquor Store, Inc. Bulletin 1264, Item 8. However, it appears that defendants committed a similar violation more than five, but less than ten, years ago and a dissimilar violation within the past five years. Under the circumstances of this case, I shall suspend defendants' license for thirty-five days. Five days will be remitted for the plea, leaving a net suspension of thirty days.

Defendants conduct a seasonal business and said business is now being operated only in a limited way. Thus no effective penalty can be imposed at this time. The effective dates of the suspension will be fixed by further order which will be entered by me after the licensed premises shall have fully resumed business for the 1961 season.

Accordingly, it is, on this 26th day of September 1960,

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of Barnegat Light Borough to Adam Kubelczikas and Helen Kubelczikas, t/a "Kubel's Bar & Grill", for premises at S/e corner 7th Street & Bayview Avenue, Barnegat Light Borough, be and the same is hereby suspended for thirty (30) days, the effective dates to be fixed by subsequent order, as aforesaid.



William Howe Davis  
Director