

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

BULLETIN 1223

MAY 26, 1958.

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STATE OF NEW JERSEY
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1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1223

MAY 26, 1958.

1. APPELLATE DECISIONS - ROSE AND FALGIANO v. UNION CITY.

BEATRICE ROSE and CARMEN)
FALGIANO,)
Appellants,)

-vs-)

BOARD OF COMMISSIONERS OF THE)
CITY OF UNION CITY,)
Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

George J. Kaplan, Esq., Attorney for Appellants.
Edward Y. Ajamian, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby on November 19, 1957, it suspended appellants' license for a period of twenty days effective November 25, 1957, after finding them guilty on a charge alleging that they sold, served and delivered alcoholic beverages to two minors and permitted the consumption of such beverages by said minors in and upon their licensed premises, in violation of Rule 1 of State Regulation No. 20.

"Upon the filing of the appeal an order was entered on November 22, 1957, staying respondent's order of suspension until entry of a further order herein. R. S. 33:1-31.

"Appellants in their petition of appeal allege in substance that respondent's action was erroneous in that the defense provided by R. S. 33:1-77 was established with respect to one minor and that the finding of guilt as to the other minor was against the weight of the evidence.

"Respondent in its answer denies appellants' allegations and contends that its action was based upon the evidence adduced at the hearing before it.

"The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15.

"At the hearing herein respondent called as its witnesses Martha ---, her sister Rose --- and an ABC agent. Martha and Rose testified, respectively, that on the date alleged in the charge they were 17 and 20 years old; that at about 10:00 p.m. on Friday, August 16, 1957, they visited appellants' licensed premises wherein Martha was served orange sodas and Rose consumed several glasses of beer served to her by Mrs. Rose (one of the licensees herein). On cross-examination Rose stated that on several previous occasions she had been refused alcoholic beverages by Mrs. Rose who told her to bring in her baptismal certificate; that on July 5, 1957, she presented to Mrs. Rose her baptismal certificate which indicated that she was born on July 4, 1936, whereas in truth she was born on July 4, 1937; that she had changed the date thereon because 'I had to get a job and I looked like 14 when I went

for the job' and that thereafter, on August 17, 1957, the day following the date alleged herein, she, at the request of Mrs. Rose, went to appellants' licensed premises and signed a paper falsely representing herself to be of age.

"The ABC agent testified that he and another agent visited appellants' licensed premises at 10:00 p.m. on August 16, 1957, wherein he observed Mrs. Rose serve a glass of orange soda to Martha and a glass of beer to Rose; that thereafter each of the girls was served four glasses of beer and that, when the girls had consumed some of their beverages, he and his partner identified themselves and seized the remaining portion of their drinks for evidential purposes. He testified further that he informed Mrs. Rose that the girls appeared to be minors, which fact he later ascertained, and that she did not produce any paper signed by Rose representing herself to be of age.

"Mrs. Rose testified that she served orange sodas to Martha and three glasses of beer to Rose; that on July 4, 1957, she said to Rose, 'When you bring me in proof that you are 21 years old I'll serve you;' that on July 5, 1957, Rose brought in her baptismal certificate indicating she was born on July 4, 1936, and signed a paper representing herself to be 21 years of age or over; that the next day she (Mrs. Rose) brought the signed representation to her attorney's office where Rose's address, the date the paper was signed and a notation respecting the baptismal certificate were typed thereon.

"A patron of appellants testified that he was in the licensed premises from 9:00 p.m. until midnight on the date alleged and saw Martha drinking soda and Rose drinking beer. Carmen Falgiano (the other licensee herein) testified that he went on duty as a bartender at about 10:40 p.m. on the night in question and observed Martha at the bar drinking an orange soda.

"The burden of establishing that the action of respondent is erroneous and should be reversed rests with appellant. See Rule 6 of State Regulation No. 15. In the instant case the testimony of the minors and Mrs. Rose differs from that of the ABC agent respecting the sale, service and delivery of alcoholic beverages to the minor Martha. However, while it is admitted that she was served one glass of orange soda, it is not denied that a portion of a glass of beer last served to her was seized for evidential purposes and that both agents testified at the hearing before respondent whereat the seized beverage was received in evidence. It is apparent that the evidence presented by the agents was the only proof in the case consistent with a finding of guilt and was the basis of respondent's determination. I find, therefore, that respondent's action in finding appellants guilty of the sale, service and delivery of alcoholic beverages to Martha was not against the weight of the evidence.

"Since it is admitted that appellants sold, served and delivered alcoholic beverages to Rose, the question to be determined is whether or not the defense provided by R. S. 33:1-77 was established by appellants. To establish that defense all of the following facts must appear: (a) that the minor falsely represented in writing that she was of age, (b) that her appearance was such that a normally prudent person would believe her to be of age, and (c) that the sale was made in reliance upon such written representation and appearance and in

the reasonable belief that she was of age. See Re Butera, Bulletin 606, Item 4; Re Roey, Bulletin 747, Item 3; Roey v. Hock, Bulletin 758, Item 2. It is not a defense that the minor had displayed some document (such as a baptismal certificate) which represented her age as 21 years or over. It is clear that the written representation must be signed before the sale is made. Bryla v. Newark, Bulletin 1136, Item 2; Re Miskiewicz, Bulletin 1183, Item 4.

"The fact that Mrs. Rose required documentary proof before serving alcoholic beverages to Rose is, in itself, an indication that she believed the girl to be a minor and it is only reasonable to assume that that belief persisted despite the production of the baptismal certificate. It is also reasonable to assume that Mrs. Rose was of the opinion that her acquisition of the baptismal certificate fulfilled the requirements of the statute and that, after the violation occurred and she was informed otherwise, she then prevailed upon Rose to sign a predated paper falsely representing herself to be 21 years of age or over. Further, it is reasonable to assume that, had she been in possession of the signed representation on the date alleged in the charge, she would have produced it for the agent's inspection. In view of the aforesaid, I find Rose's version of what transpired to be the more credible and that appellants failed to comply with all of the provisions of the pertinent statute.

"Considering all the facts and circumstances herein, I recommend that an order be entered affirming respondent's action and dismissing the appeal herein, and that the twenty-day suspension heretofore imposed by respondent against appellants be reinstated."

Written exceptions to the Hearer's Report and written argument with respect thereto were filed with me by appellants' attorney, pursuant to Rule 14 of State Regulation No. 15.

After carefully considering the entire record herein, including the transcript of the testimony, the Hearer's Report and the exceptions and argument filed, I concur in the Hearer's findings and conclusions and adopt his recommendation.

Accordingly, it is, on this 31st day of March, 1958,

ORDERED that the action of respondent Board of Commissioners of the City of Union City be and the same is hereby affirmed and that the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that the twenty-day suspension heretofore imposed by respondent Board and stayed during the pendency of these proceedings, be reinstated against the license held by appellants for premises 509 - 22nd Street, Union City, to commence at 3:00 a.m. April 7, 1958, and to terminate at 3:00 a.m. April 27, 1958.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (SOLICITATION FOR PROSTITUTION, OBSCENE LANGUAGE) - HOSTESSES - SELLING AND KEEPING PREMISES OPEN DURING PROHIBITED HOURS - UNQUALIFIED EMPLOYEES - NUISANCE - LICENSE SUSPENDED FOR 120 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

STEPHEN J. DIDONNA & ANGELO A. ROTONDO) 525 Monroe Street Hoboken, N. J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-62, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.)

James F. Ryan, Esq., Attorney for Defendant-licensees. Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to charges alleging that they allowed, suffered and permitted on their licensed premises (1) solicitation for prostitution and the making of arrangements for illicit sexual intercourse, (2) obscene language and conduct, (3) hostess activities, (4) after-hours sales of alcoholic beverages, (5) persons other than themselves and bona fide employees during prohibited hours, (6) the sale during prohibited hours of alcoholic beverages for off-premises consumption, (7) the employment of persons not bona fide residents of the State of New Jersey and (8) their licensed business to be so conducted as to become a nuisance. The allegations set forth in Charges 4 and 5 are in violation of a local ordinance and the allegations set forth in the other charges are in violation of state regulations.

The reports of the ABC agents who investigated defendants' licensed premises disclose the following activities which were participated in by the licensees, hereinafter referred to as Tony and Steve. On Sunday, November 3, 1957, Tony introduced the agents to a female entertainer called Maxine who, he said, was a good hustler for drinks, having consumed numerous "shots" of whiskey prior to the agents' arrival. Tony further stated that in order to promote business he was going to engage Maxine and another entertainer, and Maxine told them that she was going to bring from New York a female who could drink all night without getting drunk, and some other girls for anyone who wanted "to get fixed up" for the price of a bottle of whiskey. At 2:55 a.m. the agents observed a male patron purchase a bottle of whiskey from a bartender called Mike and thereafter leave the premises with Maxine. Tony informed the agents that he knew that the couple were going to engage in illicit sexual relations. On Sunday, November 17th, Tony, at the agents' expense, served numerous drinks of whiskey to Maxine and another entertainer called Tina, and Maxine assured the agents that Tina would engage in sexual relations with them. When the agents suggested to Tony that the entertainers might be unclean, he promised that he would arrange to date two other females who would have illicit relations with them the

following week. On this visit Tina engaged one of the agents in conversation, fondled his privates and thereafter simulated the act of sexual intercourse. On Saturday, November 23rd, one of the agents purchased during prohibited hours from Steve, a quart of whiskey for off-premises consumption. On Sunday morning, November 24, 1957, Steve served Maxine and Tina numerous drinks of whiskey at the expense of the agents and other male patrons, after which Maxine agreed with one of the agents to have illicit sexual relations with him off the premises for the price of \$8.00. When Tony was told of this arrangement, he apprised the agents of Maxine's perverted sex behavior with him earlier that evening. The agents and other patrons remained in the licensed premises until 3:30 a.m. On Sunday, December 1, 1957, after Tony had served Maxine and Tina several "shots" of whiskey, the agents identified themselves, learned that the entertainers were unqualified employees, seized the remaining portion of their drinks for evidential purposes and informed Tony of the violations. Tony readily admitted the aforesaid irregularities but refused to give the agents a signed statement.

It has long been established that solicitation for immoral purposes and the making of arrangements for illicit sexual intercourse cannot and will not be tolerated on licensed premises. The public is entitled to be protected from these sordid and dangerous evils. Re 17 Club, Inc., Bulletin 949, Item 2; in Re 17 Club, Inc., 26 N. J. Super. 43 (App. Div. 1953). Although the evidence herein clearly shows that one of the licensees promised to make arrangements with female patrons to engage in illicit sexual intercourse with the agents, there is no evidence that such arrangements were actually made. Under the circumstances, outright revocation of defendants' license is not indicated. However, considering the number of violations permitted on the licensed premises with no regard for law and common decency, a penalty commensurate with the offenses hereinabove set forth is warranted. I shall suspend defendants' license for sixty days on Charges 1, 2 and 6 (Re Wieliczka & Hanchar, Bulletin 1194, Item 2), twenty days on Charge 3 (Re Vagabond Bar, Inc., Bulletin 1156, Item 3), fifteen days on Charges 4 and 5 (Re Baumann, Bulletin 1197, Item 10), five days on Charge 7 (Re Freud & Pittala, Bulletin 1142, Item 9) and twenty days on Charge 8 (Re Vagabond Bar, Inc., supra), making a total suspension of one hundred twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of one hundred fifteen days.

Accordingly, it is, on this 2nd day of April, 1958,

ORDERED that Plenary Retail Consumption License C-62, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Stephen J. DiDonna & Angelo A. Rotondo, for premises 525 Monroe Street, Hoboken, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. April 14, 1958; and it is further

ORDERED that any renewal for the 1958-59 licensing year or transfer of said license shall be and remain under suspension until 2:00 a.m. August 7, 1958.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against ASTOR J. TSIBIKAS t/a ROYAL DELICATESSEN 730 Bergen Avenue Jersey City 6, N. J., Holder of Plenary Retail Distribution License D-4, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS AND ORDER

Astor J. Tsibikas, Defendant-licensee, Pro se. Dora P. Rothschild, appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on Sunday, February 23, 1958, he sold an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that at approximately 2:45 p.m. while in defendant's licensed premises, an ABC agent purchased a 4/5 quart bottle of Hiram Walker's Creme de Cacao from the defendant for consumption off the licensed premises. The agent left the said premises but returned immediately thereafter in the company of another agent at which time the agents identified themselves to the defendant-licensee. The latter refused to give a written statement but acknowledged the fact that he made the sale of the bottle containing the alcoholic beverage in question.

Defendant has a prior adjudicated record. His license was suspended on five previous occasions, three of which occurred prior to 1940 (more than ten years ago) and, thus, will not be considered in fixing the penalty herein. Re Perso Co., Bulletin 1202, Item 3). Effective July 17, 1950, defendant's license was suspended for five days by the local issuing authority for an "hours" violation, and again effective August 13, 1957, his license was suspended for fifteen days for an "hours" violation (Re Tsibikas, Bulletin 1188, Item 10), both violations being similar to the one now under consideration. The minimum penalty for a violation of Rule 1 of State Regulation No. 38 is fifteen days (Re Szot, Bulletin 1213, Item 10). However, in view of the fact that defendant's license has been suspended for a similar violation within the past ten years and also again for a similar violation within the past five years, I shall suspend his license for a period of thirty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 31st day of March, 1958,

ORDERED that Plenary Retail Distribution License D-4, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Astor J. Tsibikas, t/a Royal Delicatessen, for premises 730 Bergen Avenue, Jersey City, be and the

same is hereby suspended for thirty (30) days, commencing at 9:00 a.m. April 8, 1958, and terminating at 9:00 a.m. May 8, 1958.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary)
Proceedings against)

SALLY SOLIMANDO)
t/a MICKEY'S BAR & TAVERN)
402 Elmer Street)
Trenton, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-266, issued by the)
Board of Commissioners of the City)
of Trenton.)

William W. Rich, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that she sold, served and delivered alcoholic beverages to six minors and permitted the consumption of such beverages by said minors in and upon her licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that two ABC agents were at defendant's licensed premises on February 19, 1958 at about 9:30 p.m. They observed that the majority of the male patrons in the premises appeared to be minors and were drinking beer. During the next twenty minutes a few of the minors were observed at a table drinking beer while appearing to do "homework", two other minors drinking beer while playing pool and other minors at the bar ordered and drank beer. All of these minors were served by the same bartender.

The agents disclosed their identity and ascertained that the minors were, respectively, John ---, age 19, Fred ---, age 19, John B. ---, age 20, Edward ---, age 20, Frank ---, age 20, and Norman ---, age 20. The bartender told the agents that he is not steadily employed by the licensee but helps her out a couple of times a week without compensation and that on the evening in question he had been tending bar only for an hour as a favor to the licensee, also without compensation, and had not questioned the minors as to their ages or requested any of them to sign a written representation thereof; that he had not thought of it.

The bartender was the licensee's employee even if he did not receive any salary or compensation, Re Cadillac Bar Corporation, Bulletin 1059, Item 2, and the licensee is responsible for his employee's acts even in the absence of the licensee. See Rule 33 of State Regulation No. 20. Hence, the alleged casual nature of the employment and the licensee's promise to exercise more care in the future (which she should have exercised in the past) urged in mitigation of the offense, does not warrant the imposition of a lesser penalty than that which is usually imposed for a violation of this nature.

The defendant has no prior adjudicated record. The minimum penalty for sale to a 19-year-old minor is fifteen days, to which ten days will be added because of the number of minors involved. Re Guariglia, Bulletin 1195, Item 3. I shall suspend defendant's license for twenty-five days, and remit five days for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 27th day of March, 1958,

ORDERED that Plenary Retail Consumption License C-266, issued by the Board of Commissioners of the City of Trenton to Sally Solimando, t/a Mickey's Bar & Tavern, for premises 402 Elmer Street, Trenton, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. April 8, 1958, and terminating at 2:00 a.m. April 28, 1958.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - ACCEPTING ORDERS AT OTHER THAN LICENSED PREMISES - TRANSPORTATION WITHOUT INVOICE OR MANIFEST - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

DONALD DiBENEDETTO and
PASQUALE M. IUSPA
t/a PAT & DON'S
464 Roseville Avenue
Newark 7, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Distribution License D-53, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

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

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charges:

"1. On divers days during the months of November and December 1957, you sold alcoholic beverages not pursuant to and within the terms of your plenary retail distribution license, as defined by R. S. 33:1-12(3)a, contrary to R. S. 33:1-26 and R. S. 33:1-1(w), in that you accepted orders for and sold numerous bottles of various kinds of alcoholic beverages at a place other than your licensed premises, viz., in and about the premises of Westinghouse Electric Corp., Bloomfield, N. J.; in violation of R. S. 33:1-2.

"2. On divers days during the months of November and December 1957, you delivered and transported alcoholic beverages in a vehicle without the driver thereof having in his possession a requisite, bona fide, authentic and accurate delivery slip, invoice, manifest, waybill

or similar document for each item of the alcoholic beverages being delivered and transported; in violation of Rule 3 of State Regulation No. 17.

"3. On November 14, December 11 and 13, 1957 and on divers other days you sold at retail gallon size bottles of Gallo brand wine, an alcoholic beverage, at less than the prices thereof listed in the then currently effective Minimum Consumer 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 file herein discloses that, during an investigation concerning a complaint that defendants were selling alcoholic beverages below the minimum resale price, Donald DiBenedetto gave to ABC agents a statement wherein he said that he is employed in the Bloomfield plant of Westinghouse Electric Company; that during the Christmas holiday season he accepted at the plant orders for alcoholic beverages amounting to about \$80.00 from various co-workers and delivered said alcoholic beverages to his co-workers at the plant or at their respective homes. He further admitted that he did not make out, or carry in the vehicle used for delivery, any delivery slip or similar document. There is no evidence that any of the alcoholic beverages for which orders were accepted at the plant were sold below the minimum resale price. However, an examination of delivery tickets at the licensed premises disclosed that during November and December 1957 three sales of alcoholic beverages in small amounts were made at less than the minimum consumer resale prices then in effect for said items.

Defendants' attorney, in attempted mitigation, alleges that his clients had no knowledge of the law and regulation referred to in Charges 1 and 2. However, ignorance of the law or regulation affords no excuse. Re Ceasar, Bulletin 1211, Item 4. He also calls attention to the fact that Donald DiBenedetto voluntarily disclosed to the agents the facts upon which Charges 1 and 2 are based.

Defendants have no prior record. Ordinarily, I would suspend defendants' license for twenty-five days (Re Kaczyckij, Bulletin 1116, Item 11; Re Miklosey, Bulletin 1200, Item 4). However, taking into consideration the voluntary disclosure made by one of the defendants and the further fact that I believe he acted innocently in accepting orders at a place other than the licensed premises, I shall suspend the license for twenty days. Five days will be remitted for the plea herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 27th day of March, 1958,

ORDERED that Plenary Retail Distribution License D-53, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Donald DiBenedetto and Pasquale M. Iuspa, t/a Pat & Don's, for premises 464 Roseville Avenue, Newark, be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m. April 7, 1958, and terminating at 9:00 a.m. April 22, 1958.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 5 DAYS, LESS 2 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN WEIMAN and MILDRED WEIMAN)
663 South 18th Street)
Newark 3, N. J.,)

-----)
Holders of Plenary Retail Distribution License D-30, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Newark, which license is now held)
by Mildred Weiman, surviving partner)
(same address).)

CONCLUSIONS
AND ORDER

Sam Freeman, Esq., Attorney for Defendant, Mildred Weiman.
David S. Piltzer, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The surviving partner has pleaded non vult to a charge alleging that defendants sold an alcoholic beverage at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulation No. 30.

The file discloses that on the afternoon of February 7, 1958, an ABC agent purchased from John Weiman in the licensed premises a pint bottle of Seagram's Seven Crown Whiskey for \$2.85. The minimum resale price then in effect for the item in question was \$3.00.

Defendants have no prior record. Mildred Weiman, co-licensee, and her attorney have pleaded for leniency in this case. It appears that the licensees had held their license only three months at the time of the violation in question; that they had previously been engaged in the grocery business in the same neighborhood for many years and always enjoyed a good reputation for honesty and integrity. It also appears that John Weiman died on February 17, 1958, as a result of a coronary attack which he suffered on the previous evening when an attempt was made to burglarize the licensed premises. Mildred Weiman now has the responsibility of supporting her three children, the oldest of whom is ten years of age. The usual penalty for a violation of this character is ten days, less five days for the plea (Bulletin 1207, Item 8). However, under the circumstances of this case I shall suspend the license for five days, less two days for the plea, leaving a net suspension of three days.

Accordingly, it is, on this 27th day of March, 1958,

ORDERED that Plenary Retail Distribution License D-30, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to John Weiman and Mildred Weiman, and now held by Mildred Weiman as surviving partner, for premises 663 South 18th Street, Newark, be and the same is hereby suspended for three (3) days, commencing at 9:00 a.m. April 7, 1958, and terminating at 9:00 a.m. April 10, 1958.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - MISLABELED BEER TAPS - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CLUB WINDSOR, INC.)
56 Mulberry Street)
Newark 2, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-117, issued by the)
Municipal Board of Alcoholic Beverage Control of the City of)
Newark.)

-----)
Club Windsor, Inc., Defendant-licensee, by Mary Lefkowitz, Secretary-Treasurer.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it allowed, permitted and suffered two mislabeled beer taps and three unlabeled beer taps on its licensed premises, in violation of Rule 26 of State Regulation No. 20.

The file herein discloses that on February 20, 1958, during the course of a retail inspection of defendant's licensed premises an ABC agent found five barrels of Krueger beer, two of which were connected to taps which bore the brand name of "Schaefer" and three of which were connected to unlabeled taps.

By way of mitigation the defendant has submitted a statement which I have carefully examined together with the file in the case. I, however, do not find any extenuating circumstances in the case which would impel me to impose less than the established penalties in cases of this kind.

Defendant has a prior adjudicated record. Effective March 3, 1958, the local issuing authority suspended its license for thirty days for sale to intoxicated persons. The usual suspension for the violation as set forth in the charge herein is ten days (Re Dunkirk, Bulletin 1197, Item 6). However, since the aforesaid prior dissimilar violation occurred within a five-year period, an additional five-day penalty will be added (Re DeFreitas, Bulletin 1139, Item 1), making a total suspension of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 28th day of March, 1958,

ORDERED that Plenary Retail Consumption License C-117, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Club Windsor, Inc., for premises 56 Mulberry Street, Newark, be and the same is hereby suspended for ten (10) days, commencing at 7:00 a.m. April 2, 1958, and terminating at 7:00 a.m. April 12, 1958.

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)

TILLY STURCKE)
t/a PICKWICK LIQUOR SHOP)
707 Park Avenue)
Plainfield, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-8, issued by the Common Council of the City of Plainfield.)

Tilly Sturcke, Defendant-licensee, Pro se.
Edward F. Ambrose, appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging that she sold alcoholic beverages at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulation No. 30.

The file herein discloses that on February 14, 1958, Tilly Sturcke, the licensee, sold six 4/5 quart bottles of Schenley Reserve Blended Whiskey and six 4/5 quart bottles of Seagram's Seven Crown Blended Whiskey to an agent of this Division for \$52.69. The minimum consumer resale price then in effect for said twelve bottles of whiskey was \$57.48. After the sale was consummated, the agent and another who witnessed the transaction identified themselves to the defendant who then admitted aforesaid illegal sale.

The defendant has no prior adjudicated record. I shall suspend her license for the minimum period of ten days. Re Kugel & Glick, Bulletin 1214, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 31st day of March, 1958,

ORDERED that Plenary Retail Distribution License D-8, issued by the Common Council of the City of Plainfield to Tilly Sturcke, t/a Pickwick Liquor Shop, for premises 707 Park Avenue, Plainfield, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. April 7, 1958, and terminating at 9:00 a.m. April 12, 1958.

WILLIAM HOWE DAVIS
Director.

ACTIVITY REPORT FOR APRIL 1958

9.

ARRESTS:

Total number of persons arrested - - - - -	22
Licensees and employees - - - - - 10	
Bootleggers - - - - - 12	

SEIZURES:

Motor vehicles - trucks - - - - -	1
Still - over 50 gallons - - - - -	3
- 50 gallons or under - - - - -	1
Alcohol - gallons - - - - -	135.00
Mash - gallons - - - - -	425.00
Distilled alcoholic beverages - gallons - - - - -	1.60
Wine - gallons - - - - -	8.87
Brewed malt alcoholic beverages - gallons - - - - -	16.25

RETAIL LICENSEES:

Premises inspected - - - - -	945
Premises where alcoholic beverages were gauged - - - - -	539
Bottles gauged - - - - -	8,661
Premises where violations were found - - - - -	115
Violations found - - - - -	150
Type of violations found:	
Unqualified employees - - - - - 40	Other mercantile business - - - - - 9
Application copy not available - - - - - 39	Improper beer taps - - - - - 4
Reg. #38 sign not posted - - - - - 20	Disposal permit necessary - - - - - 4
Prohibited signs - - - - - 17	Other violations - - - - - 17

STATE LICENSEES:

Premises inspected - - - - -	30
License applications investigated - - - - -	13

COMPLAINTS:

Complaints assigned for investigation - - - - -	504
Investigations completed - - - - -	448
Investigations pending - - - - -	167

LABORATORY:

Analyses made - - - - -	160
Refills from licensed premises - bottles - - - - -	22
Bottles from unlicensed premises - - - - -	25

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made - - - - -	13
Persons fingerprinted for non-criminal purposes - - - - -	176
Identification contacts made with other enforcement agencies - - - - -	158
Motor vehicle identifications via N. J. State Police teletype - - - - -	4

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - -	9
Violations involved - - - - -	9
Sale during prohibited hours - - - - - 7	
Sale to minors - - - - - 1	
Sale to non-members by club - - - - - 1	
Cases instituted at Division - - - - -	31*
Violations involved - - - - -	53
Sale to minors - - - - - 10	Failure to file notice of change
Possessing illicit liquor - - - - - 4	in application - - - - - 2
Hindering investigation - - - - - 4	Filing false tax reports - - - - - 1
Sale during prohibited hours - - - - - 4	Unauthorized transportation - - - - - 1
Failure to have copy of license	Sol'r-permittee engaging in conduct
application on premises - - - - - 3	prohibited to employer - - - - - 1
Sale below minimum resale price - - - - - 2	Failure to file notice of default - - - - - 1
Purchase from improper source - - - - - 2	Permitting bookmaking on premises - - - - - 1
Furnishing unlawful inducements	Sale to non-members by club - - - - - 1
to retailer - - - - - 2	Permitting gambling (cards) on prem. - - - - - 1
Fraud in application - - - - - 2	Opened containers on distribution
Service to women at a bar (local reg.) - - - - - 2	licensed premises - - - - - 1
Possessing indecent matter - - - - - 2	Permitting immoral activity on prem. - - - - - 1
Unlicensed sale by solicitor - - - - - 2	Permitting lottery activity (numbers)- - - - - 1
Employing bartender without requisite	
identification card (local reg.) - - - - - 2	

*Includes 2 cancellation proceedings - engaging in conduct unbecoming a solicitor

Cases brought by municipalities on own initiative and reported to Division - - - - -	26
Violations involved - - - - -	36
Sale to minors - - - - - 16	Permitting lottery activity (numbers)- - - - - 1
Sale during prohibited hours - - - - - 5	Permitting persons of ill repute on
Permitting brawls on premises - - - - - 4	premises - - - - - 1
Sale to intoxicated persons - - - - - 2	Act or happening - - - - - 1
Permitting minors to loiter on	Unqualified employee - - - - - 1
premises (local reg.) - - - - - 2	Failure to file notice of change in
Failure to afford view into premises	application - - - - - 1
during prohibited hours - - - - - 1	Permitting gambling (wagering) on
	premises - - - - - 1

HEARINGS HELD AT DIVISION:

Total number of hearings held -----				39
Appeals -----	3	Seizures -----	3	
Disciplinary proceedings -----	25	Tax revocations -----	3	
Eligibility -----	5			

STATE LICENSES AND PERMITS ISSUED:

Total number issued -----				2,484
Licenses -----	1	Social affair permits -----	391	
Employment permits -----	1,726	Miscellaneous " -----	167	
Solicitors' " -----	50	Transit insignia -----	48	
Disposal " -----	70	Transit certificates -----	31	

Dated: May 6, 1958

WILLIAM HOWE DAVIS
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SUSPENSION REIMPOSED AFTER TERMINATION OF PROCEEDINGS TO REVIEW.

In the Matter of Disciplinary Proceedings against)

CLUB ELENA INCORPORATED)
243 Market Street)
Paterson 1, N. J.,)

O R D E R

Holder of Plenary Retail Consumption License C-280 (for the 1956-57 and 1957-58 licensing years), issued by the Board of Alcoholic Beverage Control for the City of Paterson.)
-----)

BY THE DIRECTOR:

On July 2, 1957, the defendant's license was suspended for one hundred eighty-five days. See Bulletin 1182, Item 4. Upon appeal to the Superior Court, Appellate Division, an order was entered by the Court staying the suspension pending the outcome of the appeal. On March 25, 1958, the Court dismissed the appeal for lack of prosecution and, thus, the penalty may now be reimposed.

Accordingly, it is, on this 31st day of March, 1958,

ORDERED that the suspension of one hundred eighty-five days, heretofore imposed upon Plenary Retail Consumption License C-280, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Club Elena Incorporated, for premises 243 Market Street, Paterson, be and the same is hereby reimposed, commencing at 3:00 a.m. April 7, 1958, and continuing for the balance of its term; and it is further

ORDERED that any renewal or transfer of such license shall be and remain under suspension until 3:00 a.m. October 9, 1958.

WILLIAM HOWE DAVIS
Director.

11. PRACTICES UNDULY DESIGNED TO INCREASE CONSUMPTION - SALE OF MONEY ORDERS ON LICENSED PREMISES DISAPPROVED.

March 28, 1958

Gentlemen:

This acknowledges your letter of March 26th inquiring whether you may sell money orders at your licensed premises operated as a straight package store under a plenary retail consumption license with the so-called "broad package privilege".

In view of the fact that the operation of a money order service on liquor licensed premises would inevitably result in the attraction to the licensed premises of many persons who do not desire to purchase alcoholic beverages but who might be subjected to solicitation to make such purchase, and in view of the further fact that some of these persons might be minors, the conduct of any such operation or service by any liquor licensee in New Jersey is disapproved. Cf. Bulletin 1052, Item 16, wherein the use of licensed premises for the preparation of income tax returns was likewise disapproved.

Very truly yours,
WILLIAM HOWE DAVIS
Director.

12. DISCIPLINARY PROCEEDINGS - SUSPENSION FOR BALANCE OF TERM LIFTED UPON CORRECTION OF UNLAWFUL SITUATION.

In the Matter of:)
Application to lift suspension)
of Plenary Retail Consumption)
License C-3, issued by the)
Township of Frelinghuysen to)
Janette Kinney, t/a Janette's)
Tavern)
and)
Lawrence Kooger, holder of)
Employment Permit No. 4120.)

ON PETITION
O R D E R

It appears from verified petition filed herein that, by Order dated February 19, 1958, the Director suspended the defendant, Janette Kinney's, License and Lawrence Kooger's Employment Permit for the balance of the term, with leave to apply for lifting of such suspension at the expiration of 30 days; and

By said Order the suspensions were to take effect February 26, 1958 at 9:00 a.m., and whereas such 30 days expire March 28th at 9:00 a.m.; and

It appearing that the suspensions hereunto imposed are adequate, the relief sought herein will be granted.

It is, therefore, this 28th day of March, 1958, ORDERED that the suspension of the License and Permit held by defendants be and the same are hereby lifted, and said License C-3, issued by the Township of Frelinghuysen, is restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS
Director.

Note: The verified petition sets forth that, on March 21, 1958, the Township Committee of the Township of Frelinghuysen approved an application to transfer the license to Janette Kinney and Lawrence Kooger, thus correcting the unlawful situation.

13. DISCIPLINARY PROCEEDINGS - SUSPENSION - EFFECTIVE DATES
ADVANCED.

In the Matter of Disciplinary)
Proceedings against)

BIASE'S BAR & GRILL (A Corp.))
451-457 Bloomfield Avenue)
Newark 4, N. J.,)

O R D E R

Holder of Plenary Retail Consump-)
tion License C-116, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Newark.)

Defendant-licensee, by Anthony P. Biase, President.

BY THE DIRECTOR:

An order having been entered herein on March 26, 1958,
suspending defendant's license for five days commencing at
2:00 a.m. April 7, 1958, and terminating at 2:00 a.m. April 12,
1958, and

Defendant having requested me to advance the effective
date of said suspension because numerous affairs had previously
been scheduled to be held on the premises during the week of
April 7, and no reason appearing to the contrary,

It is, on this 28th day of March, 1958,

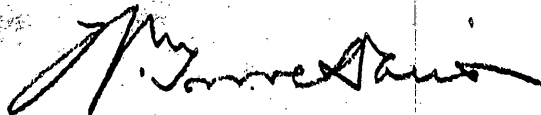
ORDERED that the suspension previously imposed shall
commence at 2:00 a.m. March 31, 1958, and terminate at 2:00
a.m. April 5, 1958, in lieu of the dates previously fixed for
said suspension.

WILLIAM HOWE DAVIS
Director.

14. STATE LICENSES - NEW APPLICATION FILED.

Keansburg Beverage Company
158-162 Main Street
Keansburg, N. J.

Application filed May 19, 1958 for person-to-person transfer
of State Beverage Distributor's License SBD-112 from
Jack Lazar and Jack Korobow, t/a Keansburg Beverage Co.



William Howe Davis
Director.