

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

BULLETIN 1244

OCTOBER 10, 1958.

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2. DISCIPLINARY PROCEEDINGS - CONVICTION OF CRIME AFTER MAKING APPLICATION FOR LICENSE - LICENSE SUSPENDED FOR BALANCE OF TERM.

MORAL TURPITUDE - CONVICTION OF SOLICITING AND PROCURING FOR THE PURPOSE OF PROSTITUTION INVOLVES MORAL TURPITUDE.

In the Matter of Disciplinary Proceedings against)

ALBERT BADER)
2 Main Street)
Paterson, N. J.,)

Holder of Plenary Retail Consumption License C-115 for the 1957-58, licensing years, issued by the Board of Alcoholic Beverage Control for the City of Paterson and transferred, and renewed for the 1958-59 licensing year to)

GEORGE MCGILLICK & VIRGINIA MCGILLICK)
t/a THE 2 G'S BAR)

for the same premises.)

CONCLUSIONS AND ORDER

Vincent C. Duffy, Esq., Attorney for Defendant-licensee.
Dikran Hagopian, Esq., Attorney for George McGillick and Virginia McGillick.

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

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The defendant, Albert Bader, entered a technical plea of not guilty, in that he did not deny any of the basic facts, but was uncertain whether they established his guilt of the following charge:

'On October 24, 1957, you were convicted in the Passaic County Court Law Division (Criminal) of the crime of soliciting and procuring for the purpose of prostitution, a crime involving moral turpitude, such conviction being an act or happening occurring after the time of your making application for your current license which, if it had occurred before said time, would have prevented the issuance of the license since such issuance would have been contrary to R.S. 33:1-25.'

"There were introduced in evidence a certified copy of the conviction on September 24, 1957 of Jack (also known as Albert) Bader of soliciting and procuring for the purpose of prostitution and his sentence on October 24, 1957 to 'State Prison 2 to 3 years Suspended, Fine \$1000.00 Pay on probation at \$10.00 a week, Probation 2 years'; a copy of notice of appeal from such conviction and sentence, dated November 15, 1957; and a copy of the decision dated June 5, 1958 of the Superior Court of New Jersey, Appellate Division, affirming such conviction.

"The crime of soliciting and procuring for the purpose of prostitution involves moral turpitude. Re Case No. 1331, Bulletin 1168, Item 6. Because of his conviction of such

crime, Bader now would fail to qualify for a liquor license of any class. This is an act or happening, occurring after making application for the license, which, if it had occurred before said time, would have prevented the issuance of the license since such issuance would have been contrary to R. S. 33:1-25. Hence, Bader's conviction (with his resultant disqualification) is grounds for suspension or revocation of the license. R. S. 33:1-31. Some stress is placed upon the Director's conclusions in Re Bader, Bulletin 1184, Item 1, that Bader did not participate personally in the offense for which his license was suspended for 200 days in disciplinary proceedings arising from the same misconduct. However, such opinion has no controlling effect and cannot override the formal judgment of the court in criminal proceedings after trial by jury.

"In cases of this nature, the objective is not to inflict severe punishment on the licensee, but to protect the public interest by removing the licensee, now ineligible to hold a license in this State, from active participation in the alcoholic beverage business in New Jersey while such disqualification persists. Re Cottman, Bulletin 987, Item 1; Re Tulipano, Bulletin 980, Item 2. In those cases, while the license was suspended for the balance of its term, provision was made for immediate lifting of the suspension upon proper transfer of the license.

"In the instant case, the license was transferred from Bader to the McGillicks while Bader's appeal from his conviction was pending. The evidence presented at the hearing herein had a double purpose (1) to establish the conviction and (2) to support a lifting of any suspension to be imposed. From the evidence presented at considerable length by the transferees, it appears that they are bona fide purchasers who have invested considerable money, for the most part borrowed, in the purchase and alterations of the premises in a business which, as yet, is only sufficient to provide a bare living and in the conduct of which George McGillick works night and day.

"Under all the circumstances and since the removal of Bader from the licensed business (the primary objective of the proceedings) has been accomplished, I recommend that, in accordance with the practice in such cases, an order be entered suspending the license for the balance of its term and further providing that such suspension be lifted effective immediately."

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

Having carefully considered the facts and circumstances herein, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 4th day of September, 1958,

ORDERED that Plenary Retail Consumption License C-115, for the 1957-58 licensing year, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Albert Bader for premises 2 Main Street, Paterson, and transferred during the pendency of these proceedings and renewed for the 1958-59 licensing year to George McGillick and Virginia McGillick, t/a The 2 G's Bar, for the same premises, be and the same is hereby suspended for the balance of its term, and it is further

ORDERED that the suspension herein imposed be lifted and that License C-115, now held by George McGillick and Virginia McGillick, t/a The 2 G's Bar, be restored to full force and operation, both effective immediately.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CHARLES T. & MAMIE A. JENNINGS)
t/a TUMBLE INN)
S/W cor. Medford & Atco Roads)
Shamong Township)
PO RFD #2, Vincentown, N. J.,)

CONCLUSIONS
AND ORDER

-----)
Holders of Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Shamong.)

James M. Davis, Jr., Esq., Attorney for Defendants.
William F. Wood, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that they sold and permitted the sale of alcoholic beverages to three minors and permitted said minors to consume alcoholic beverages on their licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file discloses that, acting upon information received from the Medford Lakes Police Department, ABC agents obtained signed, sworn statements from Raymond --- (16 years of age), Thomas --- (18 years of age) and John --- (18 years of age). From these statements it appears that Raymond and John entered defendants' licensed premises on August 2, 1958 between 9:00 p.m. and 10:00 p.m. and there met Thomas; that Raymond purchased two bottles of beer and one shot of whiskey; that John purchased about six bottles of beer and five shots of whiskey, and that Thomas purchased four or five bottles of beer and six or seven drinks of whiskey. Each minor consumed the drinks he purchased and each minor later identified Stanley Robinson as the person who sold and served the alcoholic beverages. Robinson then denied that he had seen the minors in the premises on the evening of August 2, 1958.

Defendants have no prior record. The minimum penalty for sale to a sixteen-year-old minor is twenty-five days. (Re Raywood, Bulletin 1220, Item 4), to which five days should be added because of the number of minors involved (Re Barnell, Bulletin 1233, Item 3) and an additional five days because of the amount of alcoholic beverages sold to the minors (Re Polato, Bulletin 1145, Item 11). Five days will be remitted for the plea herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 10th day of September, 1958,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Shamong to Charles T. & Mamie A. Jennings, t/a Tumble Inn, for premises at S/W cor. Medford & Atco Roads, Shamong Township, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. September 17, 1958 and terminating at 2:00 a.m. October 17, 1958.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY TICKETS - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

STANLEY MAJEWSKI and ESTELLE J. MAJEWSKI)
687 Klockner Road)
Hamilton Township)
P. O. Trenton 9, N. J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-23 for the 1957-58 and 1958-59 licensing years, issued by the Township Committee of Hamilton Township.)

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

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

"1. On June 7, 10 and 12, 1958, you engaged in and 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 June 7, 10 and 12, 1958, 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."

The file herein discloses that on the dates set forth in the charges Stanley Majewski (one of the licensees herein) accepted "numbers" bets from ABC agents or from several patrons on the licensed premises. On June 12, 1958, through prearrangement with the local police authorities, police officers came into the premises and requested aforementioned Stanley Majewski to empty his pockets, as a result of which a treasury lottery slip and five "numbers" slips bearing lists of numbers and \$120.20 were found on his person. Said sum of money included \$3.55 given to Majewski by several patrons in payment of "numbers" bets and a single ten-dollar bill obtained from the cash register.

by the licensee in exchange for ten one-dollar bills (the serial numbers of which were previously recorded by the agents and given to Majewski by them in payment of their bets) found in the cash register. Stanley Majewski was placed under arrest by the local police and, in a sworn, written statement dated June 12, 1958, he admitted aforesaid violations.

By way of mitigation of penalty the attorney for defendants has submitted a statement the contents of which I have carefully read together with the file in the case, the reports of agents and the statement of Stanley Majewski. I, however, do not find any extenuating circumstances which would impel me to impose less than the established penalties in cases of this kind.

Defendants have no prior adjudicated record. However, when Stanley Majewski held this license in partnership with Elia Bertoni for the same premises, it was suspended for ten days effective January 24, 1955, by the local issuing authority for sale to minors. The minimum penalty imposed for the violations charged herein is twenty-five days. Re Romano, Bulletin 1236, Item 10. Since the prior dissimilar violation by defendants' predecessor-in-interest occurred within a five-year period, five days will be added to the penalty. Re Robbins, Bulletin 1197, Item 9. I shall suspend defendants' license for a period of 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 28th day of August, 1958,

ORDERED that Plenary Retail Consumption License C-23, issued by the Township Committee of Hamilton Township to Stanley Majewski and Estelle J. Majewski, for premises 687 Klockner Road, Hamilton Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. September 8, 1958, and terminating at 2:00 a.m. October 3, 1958.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - PURCHASE FROM OTHER THAN MANUFACTURER OR WHOLESALER - POSSESSING LIQUOR TRANSPORTED INTO STATE BY PERSON NOT LICENSED TO TRANSPORT - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

HERMAN ROSNER & EDDIE GREENWALD)
t/a SOUTH END LIQUORS & DEL.)
310 Orange Road)
Montclair, N. J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Distribution License D-7, for the 1957-58 and 1958-59 licensing years, issued by the Board of Commissioners of the Town of Montclair.)

Green and Yanoff, Esqs., by H. Kermit Green, Esq., Attorneys for Defendant-licensees.
William F. Wood, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendants have pleaded non vult to the following charges:

"1. Between about November 1956 and October 1957 you, New Jersey retail licensees, without authority of special permit, purchased or obtained alcoholic beverages from persons who were not the holders of any New Jersey manufacturer's or wholesaler's license, in that you purchased or obtained four cases of 4/5 quarts (fifths), one case of quarts and two cases of pints of Canadian Club Blended Canadian Whisky from James E. Hough and/or other persons, who did not hold either of the above types of licenses; your obtaining alcoholic beverages from such persons being in violation of Rule 15 of State Regulation No. 20.

"2. On October 10, 1957 and prior thereto you possessed and had custody of illicit alcoholic beverages in that you kept and stored in and about your licensed premises the aforesaid seven cases of Canadian Club Blended Canadian Whisky, all such alcoholic beverages being illicit under R. S. 33:1-1(i) since they had been transported in this State by and purchased from a person or persons not licensed to transport or sell such beverages; your possession and custody of said alcoholic beverages being in violation of R. S. 33:1-50.

"3. On October 14, 1957 and on various other occasions, while agents of the Director of the Division of Alcoholic Beverage Control were investigating various alleged violations of the Alcoholic Beverage Law and Regulations, including (a) sale of alcoholic beverages by retailers and solicitors in violation of the terms of their licenses or permits, (b) purchase of alcoholic beverages by retailers from persons not licensed or authorized to sell such beverages, (c) gifts of unlawful rebates, discounts or other inducements to retailers by wholesalers and solicitors and (d) unlawful transportation

of alcoholic beverages, you failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation; in violation of R.S. 33:1-35."

The file herein discloses that on October 10, 1957 a check by ABC agents of the stock of alcoholic beverages on the defendants' licensed premises disclosed that there were four cases of fifths, one case of quarts and two cases of pints of Canadian Club Canadian Blended Whisky which did not appear to have been purchased from the holder of a New Jersey manufacturer's or wholesaler's license, as required by law.

When questioned as to the source of this whiskey one of the licensees declined to give any explicit explanation as to how and when they obtained possession thereof but admitted that he and his partner illegally possessed the whiskey. Pressed for details of the transaction, he professed inability to remember the particular circumstances and refused to sign any written statement of explanation.

Such refusal necessitated a long and arduous investigation by ABC agents of a devious trail of the whiskey, by "excise numbers", bottling dates, and wholesalers shipping identification marks. Inquiries on this score were made of the distiller, various wholesalers and a retailer, the result of which strongly suggests, but does not definitely establish, that the Canadian Club Whisky found in the defendants' premises was part of shipments from the distiller to a wholesaler located in Passaic County, who delivered it to a retailer located in that county, from whom it was obtained by a person who delivered it for resale to the defendant-licensees.

However, what is clear is that the investigation confirms the admission that the licensees had not acquired or obtained the whiskey in accordance with the rules and regulations governing the subject. What actually occurred remains unrevealed by reason of the silence of the licensees. This action is without question to be considered failure to facilitate and the hindrance and delay of the investigation.

The defendants have an adjudicated record of a suspension of their license for five days, effective October 1, 1951, for sale of alcoholic beverages to a minor. Since this dissimilar violation occurred more than five years ago, it will not be considered in fixing the penalty herein. Re Erceg, Bulletin 1214, Item 8. I shall suspend the license of defendants for a period of fifteen days on Charges 1 and 2 which are directly related, Re Pulek, Bulletin 968, Item 3; see also Re DeFilippis, Bulletin 1203, Item 11, and for an additional period of ten days on Charge 3, Re Sorbera, Bulletin 1224, Item 1, 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 4th day of September, 1958,

ORDERED that Plenary Retail Distribution License D-7, issued by the Board of Commissioners of the Town of Montclair to Herman Rosner & Eddie Greenwald, t/a South End Liquors & Del., for premises 310 Orange Road, Montclair, be and the same is hereby suspended for a period of twenty (20) days, effective at 9:00 a.m. September 16, 1958 and terminating at 9:00 a.m., October 6, 1958.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

BENEVOLENT AND PROTECTIVE ORDER OF ELKS OF THE UNITED STATES OF AMERICA INC., WEST DEPTFORD LODGE 1967 N/S Cooper Street, East of Westville-Almonesson Road Deptford Township, PO Almonesson, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-17 (for the 1957-58 and 1958-59 licensing years), issued by the Deptford Township Committee.)

-----) Cahill and Wilinski, Esqs., by Robert Wilinski, Esq., Attorneys for Defendant-licensee. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

The file herein discloses that on April 5, 1958, an ABC agent, making a routine inspection of defendant's open stock of liquors, seized seven bottles the contents of which appeared to be off in proof and color. Subsequent analysis by the Division's chemist showed that the contents of all the bottles seized were too high in solids and too low in acids when compared with samples of the genuine products. The Steward in charge of defendant's premises denied tampering with the seized liquors. This does not excuse the violation.

Defendant has no prior adjudicated record. I shall suspend its license for thirty days (the minimum suspension for a violation involving seven bottles of illicit liquor). Re Faye DiPietro Guarano, Inc., Bulletin 1239, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 15th day of September, 1958,

ORDERED that Plenary Retail Consumption License C-17 (for the 1958-59 licensing year), issued by the Deptford Township Committee to Benevolent and Protective Order of Elks of the United States of America Inc., West Deptford Lodge 1967, for premises on N/S Cooper Street, East of Westville-Almonesson Road, Deptford Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. September 22, 1958, and terminating at 2:00 a.m. October 17, 1958.

WILLIAM HOWE DAVIS Director.

ACTIVITY REPORT FOR SEPTEMBER 1958

ARRESTS:

Total number of persons arrested	23
Licensees and employees	12
Bootleggers	11

SEIZURES:

Motor vehicles - cars	3
Stills - over 50 gallons	2
- 50 gallons or under	1
Mash - gallons	150.00
Distilled alcoholic beverages - gallons	97.80
Wine - gallons	.25
Brewed malt alcoholic beverages - gallons	4.15

RETAIL LICENSEES:

Premises inspected	587
Premises where alcoholic beverages were gauged	429
Bottles gauged	7,247
Premises where violations were found	51
Violations found	70
Unqualified employees	20
Reg. #38 sign not posted	16
Application copy not available	13
Prohibited signs	6
Other mercantile business	6
Improper beer taps	1
Disposal permit necessary	1
Other violations	7

STATE LICENSEES:

Premises inspected	23
License applications investigated	10

COMPLAINTS:

Complaints assigned for investigation	437
Investigations completed	458
Investigations pending	170

LABORATORY:

Analyses made	178
Refills from licensed premises - bottles	1
Bottles from unlicensed premises	36

IDENTIFICATION:

Criminal fingerprint identifications made	8
Persons fingerprinted for non-criminal purposes	199
Identification contacts made with other enforcement agencies	157
Motor vehicle identifications via N. J. State Police teletype	2

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	14
Violations involved	15
Sale during prohibited hours	11
Sale to non-members by club	2
Sale to minors	1
Sale to intoxicated persons	1
Cases instituted at Division	26
Violations involved	46
Sale during prohibited hours	5
Permitting immoral activity on premises	5
Conducting business as a nuisance	5
Sale to minors	5
Permitting foul language on premises	3
Sale to intoxicated persons	3
Sale outside scope of license	3
Fraud and front	2
Sale below minimum resale price	2
Possessing indecent matter	2
Failure to have copy of license application on premises	2
Possessing liquor not truly labeled	1
Retailer employing solicitor	1
Permitting hostesses on premises	1
Delivery without bona fide invoice	1
Permitting bookmaking on premises	1
Employing unqualified person	1
Peddling from vehicle	1
Permitting prostitute on premises	1
Failure to close premises during prohibited hours	1
Cases brought by municipalities on own initiative and reported to Division	24
Violations involved	30
Sale to minors	14
Permitting brawl on premises	5
Sale during prohibited hours	3
Purchase from improper source	2
Conducting business as a nuisance	2
Service to women at a bar (local reg.)	1
Sale to intoxicated persons	1
Possessing liquor not truly labeled	1
Permitting immoral activity on premises	1

HEARINGS HELD AT DIVISION:

Total number of hearings held	46
Appeals	6
Disciplinary proceedings	25
Eligibility	7
Seizures	2
Tax revocations	4
Applications for license	2

STATE LICENSES AND PERMITS ISSUED:

Total number issued	1,247
Licenses	4
Employment permits	191
Solicitors'	42
Disposal	76
Social affair permits	418
Miscellaneous	243
Transit insignia	244
Transit certificates	29

WILLIAM HOWE DAVIS
DIRECTOR

Dated: October 2, 1958

8. DISCIPLINARY PROCEEDINGS - VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ROSE KONNER)
 t/a KONNER'S GRILL)
 802-802 1/2 Main Street)
 Bradley Beach, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Board of Commissioners of the Borough of Bradley Beach.)

 Herbert & Isherwood, Esqs., by J. Stanley Herbert, Esq., Attorneys for Defendant-licensee.

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

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on Sunday, July 13, 1958, she sold six cans of Piel's beer for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that on the above day and date, at about 1:30 p.m., an ABC agent entered the defendant's licensed premises and remained there for about half an hour. During this period he observed Irving Konner, the licensee's son, who was acting as bartender, on three occasions, at various intervals, bring from the refrigerator paper bags which appeared to contain cans of beer, place the bags near the rear entrance of the premises, receive money from three patrons and each patron thereafter pick up one of the bags and leave the premises. Thereafter the agent asked Konner for six cans of beer to take home. Konner repeated his previous procedure, brought a paper bag from the refrigerator, placed it near the rear entrance, returned to the bar, accepted money in payment for the beer from the agent and told him that the beer was near the rear door and that he could pick it up when he was ready to leave. The agent picked up the bag which contained six cans of Piel's beer, left through the rear door and joined another ABC agent who had remained outside. Both agents then entered the premises and identified themselves to Konner, who at first denied selling the beer to the agent but ultimately stated that he would not make any admission -- that the agents had the evidence and that was all they needed.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of fifteen days. Re Lithuanian Citizens Independent Aid Club, A Corp., Bulletin 1236, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 4th day of September, 1958,

ORDERED that Plenary Retail Consumption License C-2, issued by the Board of Commissioners of the Borough of Bradley Beach to Rose Konner, t/a Konner's Grill, for premises 802-802 1/2 Main Street, Bradley Beach, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. September 15, 1958, and terminating at 2:00 a.m. September 25, 1958.

9. WHOLESALE LICENSE - OBJECTION TO ISSUANCE OF, HELD TO BE WITHOUT MERIT.

In the Matter of Objections to)
the Issuance of a Plenary)
Wholesale License to)

CONCLUSIONS

DUGGAN'S DISTILLERS PRODUCTS)
CORPORATION)
7-11 Paris Street)
Newark, N. J.)

-----)
Meehan Brothers, Esqs., by John J. Meehan, Esq., Attorneys
for Applicant.

N. J. Wine & Spirit Wholesalers Association, by Milton H.
Cooper, Executive Director, Objector.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"A written objection to the issuance of the above application for a plenary wholesale license having been filed, a hearing thereon was held on July 25, 1958. Rule 12 of State Regulation No. 1.

"The written objection filed by N. J. Wine & Spirit Wholesalers Association alleges that there is no public need or necessity for the issuance of such license to the applicant.

"At the hearing, the Executive Director of the objector aforesaid who is an attorney duly licensed to practice in New Jersey, appeared in the objector's behalf. No witnesses were called by objector herein.

"Francis Charles Massie, vice-president of applicant corporation, testified that at the present time the corporation holds a rectifier and blender license issued by the Division of Alcoholic Beverage Control of this State; that in addition thereto it desires to obtain a plenary wholesale license so that it may import certain types of bottled alcoholic beverages from abroad for sale to New Jersey retailers and wholesalers. There are no other wholesalers in this State who handle or will handle such items; that under its present license it is engaged in the custom bottling business for other wholesalers for sale in this State.

"There has been nothing meritorious presented by the objector which should in any way prevent the issuance of the license in question. I, therefore, recommend that the license be issued if and when the application is in proper form."

No exceptions to the Hearer's Report were filed with me in this matter.

After careful consideration of the entire record herein, I concur in the Hearer's findings and adopt the Hearer's recommendation. I shall, therefore, issue the license pursuant to the application filed herein.

WILLIAM HOWE DAVIS
Director.

Dated: September 9, 1958.

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)

ISRAEL ARINSBERG & MORTON ARINSBERG t/a ERLTON LIQUORS 811-813 Route 70 Delaware Township PO Erlton, N. J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Distribution License D-1, issued by the Board of Commissioners of Delaware Township.)

Defendant-licensees, by Morton Arinsberg, Partner. Dora P. Rothschild, appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they 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 July 30, 1958 Richard J. Thomas, a clerk of defendant-licensees, sold six 4/5 quart bottles of Seagram's V. O. Canadian Whisky to an agent of this Division for \$34.56. The minimum consumer resale price then in effect for said six bottles of whiskey was \$38.40. After the sale was consummated, the agent and another who joined him, identified themselves to Morton Arinsberg, one of the licensees, and Mr. Thomas, who admitted the aforesaid illegal sale.

Defendants have no prior adjudicated record. I shall suspend defendants' license for the minimum period of ten days. Re Sturcke, Bulletin 1223, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 10th day of September, 1958,

ORDERED that Plenary Retail Distribution License D-1, issued by the Board of Commissioners of Delaware Township to Israel Arinsberg & Morton Arinsberg, t/a Erlton Liquors, for premises 811-813 Route 70, Delaware Township, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. September 22, 1958, and terminating at 9:00 a.m. September 27, 1958.

WILLIAM HOWE DAVIS
Director.

11. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE
SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

MAYFAIR OF TOTOWA, INC.)
t/a MAYFAIR RESTAURANT AND)
COCKTAIL LOUNGE.)
Route 46)
Totowa, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-10, issued by the)
Borough Council of the Borough of)
Totowa.)

Defendant-licensee, by William H. Wilson, Secretary-Treasurer.
William F. Wood, Esq., appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

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

The file herein discloses that on July 15, 1958, an
ABC agent, while testing defendant's open stock of alcoholic
beverages, seized three bottles the contents of which appeared
to be off in color. The Secretary-Treasurer and the bartender
denied tampering with the contents of the bottles. Subsequent
analysis by the Division's chemist disclosed that the contents
of two of the bottles were genuine as labeled but that the
solids in one 4/5 quart bottle labeled "Lord Calvert Blended
Whiskey 86.8 Proof" were much higher and the color darker than
the solids and color found in the contents of a genuine bottle
of the same brand.

Defendant has no prior adjudicated record. On August
13, 1958, I announced that in mislabeled liquor cases where
only one bottle is involved, and there is no evidence of
deliberate intent to defraud the public and no previous sus-
pension or warning for the same offense, the period of
suspension would be ten days instead of the minimum penalty of
fifteen days which has prevailed for many years. There is to
be no change in the previous policy in cases involving two or
more bottles. Hence I shall suspend defendant's license for
ten days. Five days will be remitted for the plea herein,
leaving a net suspension of five days.

Accordingly, it is, on this 11th day of September, 1958,

ORDERED that Plenary Retail Consumption License C-10,
issued by the Borough Council of the Borough of Totowa to
Mayfair of Totowa, Inc., t/a Mayfair Restaurant and Cocktail
Lounge, for premises on Route 46, Totowa, be and the same is
hereby suspended for five (5) days, commencing at 3:00 a.m.
September 22, 1958, and terminating at 3:00 a.m. September 27,
1958.

WILLIAM HOWE DAVIS
Director.

NOTE: By Order dated September 17, 1958, the effective
dates of the above suspension were advanced to
commence at 3:00 a.m. September 21, 1958 and to
terminate at 3:00 a.m. September 26, 1958.

12. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

GERARD J. BURSTEIN)
t/a B. BURSTEIN'S CUT RATE)
DRUG STORE)
430 Springfield Avenue)
Summit, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-7, issued by the Common Council of the City of Summit.)

Kentz and Kentz, Esqs., by Frederick C. Kentz, Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:


Defendant pleaded non vult to a charge alleging that he sold and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that ABC agents, acting upon information transmitted to this Division by the Summit Police Department, obtained a signed, sworn statement from Gilbert ---, age 19, wherein he states that on June 16, 1958, he and two minor companions, John --- and Allan ---, drove to defendant's licensed premises which he and John entered; that he purchased from a female clerk therein four six-pack cans of beer for off-premises consumption after presenting an altered Hawaiian driver's license indicating that he was of legal age; that John gave the agents a signed, sworn statement corroborating Gilbert's and that Allan, who had remained outside the premises, verbally stated that Gilbert returned to the car carrying 24 cans of beer. The file further discloses that Gilbert and John directed the agents to defendant's licensed premises and pointed it out as the place where the beer was purchased; that Gilbert identified therein the licensee's wife as the person who made the sale and that Mrs. Burstein stated to the agents that she was the clerk on duty on the date alleged and, while not denying or admitting that she sold and served Gilbert, she stated that he definitely appeared to be a minor.

Defendant has no prior adjudicated record. The minimum penalty for an unaggravated sale of alcoholic beverages to a nineteen-year-old minor is fifteen days. Re Barth, Bulletin 1236, Item 9. However, considering the quantity of alcoholic beverages sold to the minor, I shall suspend defendant's license for twenty days. Re Hickory House, Inc., Bulletin 1227, Item 6; Re Farron, Bulletin 1142, Item 2. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 8th day of September, 1958,

ORDERED that Plenary Retail Distribution License D-7, issued by the Common Council of the City of Summit to Gerard J. Burstein, t/a B. Burstein's Cut Rate Drug Store, for premises 430 Springfield Avenue, Summit, be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m. September 15, 1958, and terminating at 9:00 a.m. September 30, 1958.



William Howe Davis
Director.