

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

December 4, 1958

BULLETIN 1250

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BULLETIN 1250

1. FEES - ESTABLISHMENT OF FEE FOR REPORT OF CRIMINAL RECORD
TO COMMERCIAL AND OTHER NON-LAW ENFORCEMENT AGENCIES.

NOTICE TO COMMERCIAL AND OTHER NON-LAW ENFORCEMENT AGENCIES
SEEKING CRIMINAL RECORD INFORMATION:

This Division is in receipt of constantly increasing volume of inquiries with respect to previous criminal record, if any, of applicants for credit, intending purchasers of automobiles on conditional sale contract, etc.

In the past, we have conducted necessary record search and advised all inquirers of the lack of record or of the details of record as the case might be, all without fee for the service rendered.

However, not only because of the increasing volume, but also because of the increasing complexity of the search resulting from the increasing volume of our records, with resulting increased cost to the State if the service is to be continued, it appears only fair that commercial and other non-law enforcement agencies be required to defray the cost of the service rendered.

Accordingly, it is hereby announced that, commencing December 1, 1958, response to all inquiries from commercial or other non-law enforcement agencies with respect to possible criminal conviction of named persons for violation of the Alcoholic Beverage Law will be made only upon payment of a fee of two dollars (\$2.00) per name to be searched.

Payment of the required fee in the appropriate amount must accompany the inquiry (which must be in writing) and must be made by cash, certified check or money order payable to the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
Director.

Dated: November 26, 1958.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (ARRANGEMENT FOR ILLICIT SEXUAL INTERCOURSE) - SALE TO INTOXICATED PERSONS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 90 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against NELLIE LACH t/a PERSHING BAR 11 Main Street South River, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-1, for the 1957-58 and the 1958-59 licensing years, issued by the Borough Council of the Borough of South River.

Benjamin Kleinberg, Esq. and Saul C. Schutzman, 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 the following charges:

"1. On May 25, 29 and 30, 1958, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of overtures and arrangements for illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20.

"2. On May 22, 29 and 30, 1958, you allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons actually or apparently intoxicated and allowed, permitted and suffered the consumption of such beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.

"3. On Friday, May 30, 1958 at about 1:50 a.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, at retail, in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of such beverages from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

The file herein discloses that on the dates alleged in the charges, three ABC agents visited defendant's licensed premises wherein, on each occasion, the licensee's son, hereinafter referred to as Joe, tended bar and participated in the unlawful activities.

Succinctly stated, on May 22, 1958 the agents observed an obviously intoxicated male consuming alcoholic beverages served to him by Joe, whose reply to one agent's comment respecting the patron's condition was "He's not so bad, he don't have far to go." Later when the agent remarked "Boy he's really loaded", Joe smiled and a female named Helen volunteered "He's not so bad tonight. You should see him some other times. At least today he's walking by himself. Sometimes he's so loaded he has to be carried upstairs."

On May 29, 1958 the agents observed another staggering male who had been served bottled beer by Joe being helped to the door by a female named Pauline.

On Sunday, May 25, 1958 the agents engaged Joe in conversation respecting Helen and Pauline and were informed that they could have sexual relations with both of them, Joe stating that "Helen has her own room and she knows where to take you...just buy her a couple of juices (blackberry brandy)." Continuing, Joe said "If you guys pick up a couple of girls in here, you can take them right outside by the river. It is dark there and nobody will bother you." When the agents were leaving, Joe said "Give me a call later, the girls might come in", and he handed them a slip of paper on which he had written the phone number of the licensed premises. The agents promised to call him later and assured him that they would return on the following Thursday.

On Thursday, May 29, 1958 the agents entered the licensed premises at about 9:45 p.m. and, noting that Pauline was being entertained by several males, one agent said to Joe "Looks like I don't get laid tonight", to which Joe replied "Don't worry about it, you're in, she's just killing time with those guys. I told her you were coming tonight." Later, Pauline approached the agents and at their suggestion agreed to engage in sexual relations with them. When the agents asked Joe if Pauline could take care of the three of them, he stated "She can take care of thirty-three of you." Thereafter the agents arranged with Pauline to spend the week-end with her and Joe readily consented to loan the agents his car and to provide them with additional money should they need it. Further, he named the motel where the illicit arrangement could be consummated. Meanwhile, one of the agents left the premises and contacted a local police officer. About 1:50 a.m. one of the two remaining agents purchased from Joe a pint of whiskey to take out, after which he, Pauline and the third agent left the premises. Shortly thereafter the trio were stopped by the local police officer and the agent who had summoned him, at which time the officer was apprized of the alleged arrangement, which Pauline denied stating that her escorts were taking her to her home. All five then returned to the licensed premises where the agents identified themselves to the licensee and her son and informed them of the aforesaid violations. Joe denied the after-hours sale to the agent and denied that he knew the agents were taking Pauline from the premises for immoral purposes. The licensee denied knowing Pauline.

It appears that Pauline was placed under arrest and charged with soliciting for immoral purposes and that, subsequently, the charge was dismissed in a magistrate's court. However, the dismissal of the criminal charges is not dispositive of the charge preferred herein against the licensee in disciplinary proceedings. Re Strauss, Bulletin 1140, Item 6.

The licensee has submitted an affidavit wherein she states that she has conducted her licensed business since the repeal of prohibition, during which time she had never heretofore been charged with any violations of the liquor laws or regulations. She further states that, in connection with her licensed business, she operates a small hotel, restricted to men roomers only, and that she has never had any reason to believe or know that any activity was permitted on her premises which would place her license in jeopardy. Her attorneys

have advised that the licensee's son is no longer associated either directly or indirectly with the conduct and management of the licensed premises, and urge that that fact and the facts set forth in the licensee's affidavit be considered as extenuating circumstances in fixing the penalty herein.

While I find that the licensee, by her agent, did permit and suffer the violations charged herein, I am satisfied that her good repute in the community and the history of her licensed business as evidenced by her affidavit preclude a determination that she permitted prostitutes to use her premises as a haven where they could ply their trade.

Considering all the facts and circumstances herein, I shall suspend the defendant's license for a period of ninety days. Cf. Re Wieliczka and Hanchar, Bulletin 1194, Item 2. Five days will be remitted for the plea entered herein, leaving a net suspension of eighty-five days.

Accordingly, it is, on this 16th day of October, 1958,

ORDERED that Plenary Retail Consumption License C-1, (for the 1958-59 licensing year), issued to Nellie Lach, t/a Pershing Bar, for premises 11 Main Street, South River, be and the same is hereby suspended for eighty-five (85) days, commencing at 2:00 a.m. October 27, 1958, and terminating at 2:00 a.m. January 20, 1959.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

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

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Manasquan.)

Pollis, Williams and Pappas, Esqs., by George L. Feaster, Esq.,
Attorneys 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 it sold and permitted the sale of alcoholic beverages to two minors and permitted said minors to consume alcoholic beverages on its licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file discloses that at about 10:30 p.m. on Saturday, July 19, 1958, two ABC agents entered defendant's premises to investigate a complaint that alcoholic beverages were being sold and served to minors. Another agent remained outside.

There were about 125 persons in the premises. At about 11:55 p.m. the agents observed a group of youthful-appearing couples seated at a table. One of this group (a male) appeared to be about 19 years of age, and a female appeared to be about 17 or 18 years of age. The agents observed the male go to the bar and order three glasses of draught beer and a Tom Collins from Joe Crine (president of the corporate licensee), who delivered the drinks to the male without questioning him as to his age. While the four persons in the group were consuming these drinks, the agents approached the table, identified themselves and ascertained that two of them were of full age.

The agents questioned the aforesaid female who said her name was Judith --- and that she was 18 years of age. The male who purchased the drinks said his name was Francis --- and that he was 19 years of age.

The agents obtained signed, sworn statements from Judith and Francis which confirmed the service of alcoholic beverages to Francis and the consumption of alcoholic beverages by Francis and Judith as observed by the agents. At the time the agents identified themselves, Joe Crine denied that he had served Francis with the four drinks of alcoholic beverages.

Defendant has a prior adjudicated record. Effective January 16, 1955, its license was suspended for fifteen days by the local issuing authority for sale of alcoholic beverages to minors. Effective July 17, 1956, its license was again suspended for fifteen days by the Director for sale of alcoholic beverages to minors. Bulletin 1128, Item 4. This is, therefore, the third suspension of defendant's license within five years for sale to minors. Under all the circumstances I shall suspend the license for forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

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

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Manasquan to Joe Crine's Tavern, Inc., t/a Joe Crine's Tavern, for premises 153 Sea Girt Avenue, Manasquan, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a. m. October 21, 1958, and terminating at 2:00 a.m. November 25, 1958.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE
SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

GEORGE F. DAVIS)
t/a SHORE TAVERN)
1813 Atlantic Avenue)
Atlantic City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-201, issued by the)
Board of Commissioners of the City)
of Atlantic City.)

John W. Parson, Jr., Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On Monday night, September 8, Wednesday night, September 10, and early Thursday morning, September 11, 1958, 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., James ---, age 17, and David ---, age 19, 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."

The file herein discloses that at approximately 1:30 a.m. on September 11, 1958, police officers stopped a car in which James --- (17 years old) and David --- (19 years old) were riding. The officers, as a result of conversation with the minors, ascertained that a short time prior thereto they had been drinking alcoholic beverages in the defendant's licensed premises. ABC agents were contacted and an investigation of the matter revealed that on September 8 each minor consumed several glasses of beer on the licensed premises. The minors stated that they were in the premises on September 10, 1958, from 8:30 p.m. until 12:30 the following morning, and on said occasion each was served and permitted to consume approximately ten glasses of beer. The minors also stated that a bartender (Clifford Madsen) had served them on both occasions.

Defendant has a prior adjudicated record. Effective October 22, 1957, his license was suspended for ten days by the local issuing authority for sale of alcoholic beverages to a minor. The minimum penalty for sale to a 17-year-old minor is twenty days (Re Dobrof, Bulletin 1226, Item 6). In view of the similar violation occurring within the past five years and the length of time spent in the premises on the last occasion and amount of beer consumed, I shall suspend defendant's license for thirty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 20th day of October, 1958,

ORDERED that Plenary Retail Consumption License C-201, issued by the Board of Commissioners of the City of Atlantic City to George F. Davis, t/a Shore Tavern, for premises 1813 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for thirty (30) days, commencing at 7:00 a.m. October 27, 1958, and terminating at 7:00 a.m. November 26, 1958.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALE TO INTOXICATED PERSONS - FILTHY AND OBSCENE LANGUAGE AND CONDUCT - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LEONARD COSTANZO)
111 1/2 Hudson Street)
Hoboken, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-195, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.)

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On Friday night, September 19 and early Saturday morning, September 20, 1958, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons actually or apparently intoxicated and allowed, permitted and suffered the consumption of such beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.

"2. On Friday night, September 19 and early Saturday morning, September 20, 1958, you allowed, permitted and suffered foul, filthy and obscene language and conduct in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20."

The file herein discloses that on the late evening of September 19 and early morning of September 20, 1958, while ABC agents were in defendant's licensed premises, a bartender on duty was observed serving drinks of alcoholic beverages to three persons, all of whom appeared to be intoxicated. One of the persons, called Joe, walked with an unsteady gait, his speech was slurred and the tone thereof was loud, his clothing was disheveled and his eyes appeared glassy. Despite such manifestation of intoxication, the bartender served him a drink of beer. A female, named Marie, whose hair and clothing were

disheveled and whose eyes were red and glassy and speech somewhat incoherent, was served a shot of whiskey by the bartender. Furthermore, this female from time to time engaged in filthy and indecent language (to repeat same would serve no useful purpose) and was never cautioned or asked to abstain from using said language either by the bartender or the defendant, who was also in the premises. Another female, called Anne, was observed by the agents with her head on her arm which was resting on the bar, in which position she remained for approximately one and one-half hours. The agents also report that each time that an effort was made by someone to awaken her, she merely raised her head and arms in a slow manner, then permitted them to drop on the bar, and then she would resume her former position. At about 1:35 a.m. Anne awoke and consumed the contents of a shot glass of whiskey which was on the bar in front of her. She then ordered a drink of blackberry brandy which the bartender served to her.

Defendant has no prior adjudicated record. The minimum suspension for violations such as those committed herein is thirty days. Re Warshaw, Bulletin 1202, Item 7. I shall suspend defendant's license for thirty days less five days' remission for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 20th day of October, 1958,

ORDERED that Plenary Retail Consumption License C-195, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Leonard Costanzo, for premises 111 1/2 Hudson Street, Hoboken, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. October 27, 1958, and terminating at 2:00 a.m. November 21, 1958.

WILLIAM HOWE DAVIS
Director.

- 6. DISCIPLINARY PROCEEDINGS - FAILURE TO FILE NOTICE OF CHANGE IN APPLICATION - AIDING AND ABETTING NON-LICENSEES TO EXERCISE PRIVILEGES OF LICENSE - ILLEGAL SITUATION CORRECTED - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against
WEST DEPTFORD LODGE NO. 1967,
BENEVOLENT AND PROTECTIVE ORDER
OF ELKS, OF THE UNITED STATES OF
AMERICA, INC.
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, issued by the Deptford Township Committee.

Crispin, Caulfield & Zamal, Esqs., by Martin F. Caulfield, Esq.,
Attorneys for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. You failed to file with the Deptford Township Committee, within ten days after the occurrence thereof, written notice of changes in facts set forth in answer to Questions Nos. 30 and 31 of your license application dated June 4, 1957, upon which you obtained your 1957-58 plenary retail consumption license, such changes being that on or about December 13, 1957 you entered into an agreement with Thomas Hines and Robert Cole, whereby they acquired an interest in your licensed business as the real and beneficial owners thereof and by which you agreed to permit them to retain all the profits from the business after payment of a fixed weekly fee to you; your failure to file such notice being in violation of R. S. 33:1-34.

"2. From about December 13, 1957 to about June 23, 1958 you knowingly aided and abetted Thomas Hines and Robert Cole to exercise, contrary to R. S. 33:1-26, the rights and privileges of your plenary retail consumption license; thereby yourself violating R. S. 33:1-52."

The file discloses that, acting upon a complaint that defendant had farmed out its license, an ABC agent visited defendant's licensed premises on June 23, 1958, and that during the course of his investigation he conferred with officers of defendant lodge and obtained a statement from Thomas Hines. In his statement Thomas Hines says that on December 13, 1957, he entered into a verbal agreement with the officers of defendant lodge whereby he and Robert Cole were given the right to operate the licensed business upon payment by them to the lodge of the sum of \$125.00 per week. Prior to that time Thomas Hines had been employed as a bartender on other premises and, when the aforesaid agreement was made, it was understood between him and Robert Cole that he would contribute his services and Cole would contribute a sum of money to finance the operation and that they would share the profits, if any, as equal partners. It further appears that this arrangement continued in effect until the first week of May 1958, at which time it was verbally agreed between the parties that the weekly rental would be reduced to \$100.00. Thereafter the arrangement continued in effect until the investigation began, as a result of which the officers of the lodge, on the evening of June 23, 1958, summoned Thomas Hines to a meeting at which he was told that he and Cole could no longer operate the business. The attorneys for defendant have advised me that, immediately thereafter, defendant lodge hired another qualified person as manager of the licensed premises on a salary basis. The illegal situation appears to have been corrected. Admittedly defendant lodge did not file with the local issuing authority a written notice of the agreement entered into on December 13, 1957, as required by R. S. 33:1-34. On behalf of defendant it is alleged that it acted without obtaining legal advice and that Hines and Cole realized no profits during the period they operated the business but that in fact they sustained a substantial loss in the operation thereof. Nevertheless it clearly appears that defendant actually "farmed out" its liquor license.

Defendant has a prior record. By order dated September 15, 1958, I suspended its license for twenty-five days for possessing alcoholic beverages in bottles bearing labels which did not truly describe their contents. Said suspension commenced at 2:00 a.m. September 22, 1958, and will terminate at 2:00 a.m. October 17, 1958. The officers of defendant lodge

fully cooperated during the course of the investigation made herein and, under all the circumstances, I shall suspend defendant's license on both charges for the minimum period of twenty days (Re Morganville Independent Club, Bulletin 1199, Item 1; Re Kanzer, Bulletin 1213, Item 3), to which will be added five days because of the prior dissimilar violation within the past five years, making a total suspension of twenty-five days.

Accordingly, it is, on this 14th day of October, 1958,

ORDERED that Plenary Retail Consumption License C-17, issued by the Deptford Township Committee to West Deptford Lodge No. 1967, Benevolent and Protective Order of Elks, of the United States of America, Inc., 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. October 17, 1958, and terminating at 2:00 a.m. November 11, 1958.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against
VITO D'ALESSANDRO
t/a TROY HILLS LIQUOR STORE
S/S Rte. #46, about 2600' east of Beverwyck Road
Parsippany-Troy Hills Township
PO RD 1, Parsippany, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-3, issued by the Township Committee of the Township of Parsippany-Troy Hills.

John H. Grossman, Esq., Attorney for Defendant-licensee.
David S. Piltzer, 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 a charge alleging that on June 13, 1958 he sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to Warren ---, age 18, in violation of Rule 1 of State Regulation No. 20.

"At the hearing held herein Warren testified that on June 13, 1958, at about 7:30 p.m., he and a friend, Donald, age 17, drove to the vicinity of the defendant's licensed premises; that he parked his car along the westerly side of a building containing two adjacent stores, the licensed premises (on the east side) and Troy Hills Manufacturer's Outlet (on the west side); that he alone entered the defendant's licensed premises and, without being required to make any written representation of his age, purchased a case (four six-packs) of Rheingold beer from Vito D'Alessandro, the licensee; that he returned to the car with the said case of beer; that later that

evening he and some friends, whom he had met in Marcella, consumed part of the beer and that about 12:00 midnight he was arrested in Denville by a local police officer who took possession of the remaining cans of beer. Warren further testified that the following day, at about 5:00 p.m., he directed the aforesaid arresting officer and another policeman to the licensed premises where he pointed out the licensee as the individual who, on June 13, 1958 aforesaid, sold him the beer and that prior to June 13, 1958 he had not visited the licensed premises.

"Donald testified that on June 13, 1958, at about 6:30 p.m., he met Warren; that at about 7:30 p.m. Warren said he was going to get some beer; that they drove down Route #46 and parked the car on a road alongside of the premises of the Troy Hills Manufacturer's Outlet aforesaid; that these premises adjoin the licensed premises on the east; that the car was facing Route #46 (north) and his view to the east was obstructed by the aforesaid building; that Warren, empty-handed, left the car, walked around the building in an easterly direction and five minutes later returned carrying the case of beer from which he took a six-pack and put the balance in the trunk of the car. Donald further testified that he remained with Warren from the time he met him at 6:30 p.m. aforesaid until they were arrested at about 12:00 midnight, and that Warren did not visit any other licensed premises during this period.

"An ABC agent testified that on July 11, 1958, Warren accompanied him and another agent to the licensed premises and identified the licensee as the person who, on June 13, 1958 aforesaid, sold him the aforesaid case of beer; that in reply to his questioning the licensee denied he saw Warren on June 13, 1958 aforesaid; that he had no Rheingold beer on his premises after 4:00 p.m. on that date; that on June 7, 1958 Warren visited his premises and asked for a six-pack of beer which he refused to sell him because he was unable to prove that he was of legal age. The agent further testified that the nearest licensed premises to the one in question is about a half mile west thereof (on the north side of Route #46) and the nearest one east thereof is about a mile (on the south side of Route #46).

"Matthew S. Olenowski was called by the Division and testified that he is a police officer in the Township of Denville; that on June 14, 1958, at about 12:05 a.m., he observed a car parked on the wrong side of Diamond Spring Road in Denville; that it was occupied by Warren and Donald, each of whom had an unopened can of beer in his hand; that he found ten additional cans of beer in a Ballantine box (12 - 12 ounce cans of Rheingold beer in a Ballantine cardboard carton, marked in evidence as Exhibit S-2) in the trunk of the car and thereupon took Warren and Donald in custody and took possession of the 12 cans of beer; that later in the day, at about 5:30 p.m., Warren directed him and another police officer to the licensed premises and identified the licensee as the one who sold him the beer. Officer Olenowski further testified that, except for asking Warren to point out the clerk who sold him the beer, there was no other conversation on the premises.

"Vito D'Alessandro, testifying on his own behalf, denied making the alleged sale of beer to Warren and denied seeing him on the premises on either June 13, 1958 (date of alleged sale) or the following day when the police officers

entered his premises. The licensee further testified that on Friday, June 13, 1958, shortly before 4:00 p.m., he had sold two double cases of Rheingold beer (one open and one sealed) to Lou Martin, a steady customer; that there were four or five six-packs missing from the open case; that he filled the same with an equal number of six-packs (one, a Schaefer) from his refrigerator and that this sale exhausted his supply of Rheingold beer until the following Tuesday. The licensee continued to testify that prior to the date of the hearing herein he had seen Warren on the licensed premises only on two occasions, to wit: June 7, 1958 when he refused to sell him any alcoholic beverages and on July 8, 1958 when he visited the licensed premises with two ABC agents to whom he reiterated his denial of the charge herein and his refusal to serve Warren on June 7, 1958 aforesaid. The licensee also testified that each day between June 7 and July 8, 1958 aforesaid he had refused to sell alcoholic beverages to numerous minors, all of whom he remembered, and that he was positive of his aforesaid identification of Warren.

"Louis M. Martin testified that he is a steady customer of the licensee; that on Friday, June 13, 1958 at about 3:30 p.m., he entered the licensed premises to purchase some alcoholic beverages in preparation of his daughter's wedding on the following day; that he asked the licensee for a quantity of Rheingold beer (apparently five cases); that the licensee stated that he only had two cases which were on the lower shelf on the right hand side of the store; that he picked up these two cases (48 Rheingold) and to complete his order also took a case of Linden beer (24 cans).

"George A. Sutton, called by the defendant, testified that he is a part-time employee of the licensee; that on June 14, 1958, at about 5:30 p.m., he was on the licensed premises when Warren and two police officers entered the same; that he had remembered seeing Warren on the licensed premises on June 7, 1958; that he heard the officers ask Warren 'was this the place' and observed Warren's negative answer to the question; that after Warren and the police officers left the premises he and the licensee followed them to their car; that at that time he asked the licensee if he knew Warren and the licensee replied 'Yes. He is not old enough, he is under age'. Sutton further testified that on Saturday night, June 7, 1958, he observed the licensee refuse to sell Warren any beer because he was unable to prove to satisfaction of the licensee that he was 21 years of age; that he had no special reason for remembering Warren except that he wore glasses and a plaid-colored hat which he had also seen on other minors who visited the licensed premises.

"Defendant called Frank Popola, who testified that he represents the sole distributor of Rheingold beer in the area covering the licensed premises; that deliveries are made weekly on Tuesday to the licensee; that his record discloses that on June 3, 1958 the licensee received two cases of 24 - 12 ounce cans of beer; that on June 10, 1958 the licensee's order did not include any 24 - 12 ounce cans of beer and that on June 17, 1958 the licensee received two cases of 24 - 12 ounce cans of beer.

"This case presents a clear conflict between the testimony of Warren and the testimony of the licensee. I have carefully examined all of the testimony in the case. The licensee states that on June 13, 1958 at about 4:00 p.m., he

exhausted his stock of Rheingold beer by using four or five six-packs from his refrigerator to fill one of the double cases of Rheingold beer purchased by Martin. Martin, however, in his testimony does not allege that the licensee was obliged to use any beer from his refrigerator to complete his order. In fact, Martin gives the impression that the two double cases of Rheingold beer he purchased were full at the time that he entered the premises and when his attention was directed to them by the licensee.

"I am satisfied that there is ample corroboration of Warren's statement that he bought the beer at the licensed premises at about 7:30 p.m. on the date alleged. Donald states that on June 13, 1958 at about 7:30 p.m., they parked their car around the corner of the building in which the licensed premises were located; that five minutes after Warren left the automobile he returned with the case of beer and that, between 6:30 p.m. and 12:00 midnight on June 13, 1958, Warren had not visited any other licensed premises. The ABC agent testified that the nearest licensed premises to the one in question was about a half mile west thereof and that the nearest one east thereof was about a mile. 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, and it is recommended that the defendant be found guilty as charged.

"Defendant has no prior adjudicated record. It is further recommended that an order be entered providing that defendant's license be suspended for a period of twenty days. Re Daniels, Bulletin 1204, Item 9."

Written exceptions to the Hearer's Report and written argument with respect thereto were filed with me by the attorney for the defendant, pursuant to Rule 6 of State Regulation No. 16.

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

Accordingly, it is, on this 14th day of October, 1958,

ORDERED that Plenary Retail Distribution License D-3, issued by the Township Committee of the Township of Parsippany-Troy Hills to Vito D'Alessandro, t/a Troy Hills Liquor Store, for premises on S/S Rte. #46, about 2600' east of Beverwyck Road, Parsippany-Troy Hills Township, be and the same is hereby suspended for twenty (20) days, commencing at 9:00 a.m. October 21, 1958, and terminating at 9:00 a.m. November 10, 1958.

WILLIAM HOWE DAVIS
Director.

8.

ACTIVITY REPORT FOR NOVEMBER 1958

ARRESTS:		
Total number of persons arrested	-----	17
Licenses and employees	----- 7	
Bootleggers	----- 10	
SEIZURES:		
Motor vehicles - cars	-----	1
Stills - over 50 gallons	-----	3
Mash - gallons	-----	100.00
Distilled alcoholic beverages - gallons	-----	121.90
Wine - gallons	-----	3.73
Brewed malt alcoholic beverages - gallons	-----	26.68
RETAIL LICENSEES:		
Premises inspected	-----	663
Premises where alcoholic beverages were gauged	-----	547
Bottles gauged	-----	9,046
Premises where violations were found	-----	73
Violations found	-----	96
Unqualified employees	----- 36	Other mercantile business
Reg. #38 sign not posted	----- 24	Improper beer taps
Application copy not available	----- 14	Disposal permit necessary
Prohibited signs	----- 8	Other violations
		6
STATE LICENSEES:		
Premises inspected	-----	20
License applications investigated	-----	3
COMPLAINTS:		
Complaints assigned for investigation	-----	323
Investigations completed	-----	324
Investigations pending	-----	129
LABORATORY:		
Analyses made	-----	34
Refills from licensed premises - bottles	-----	3
Bottles from unlicensed premises	-----	10
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made	-----	7
Persons fingerprinted for non-criminal purposes	-----	103
Identification contacts made with other enforcement agencies	-----	78
Motor vehicle identifications via N. J. State Police teletype	-----	3
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	14
Violations involved	-----	14
Sale during prohibited hours	----- 9	
Sale to minors	----- 4	
Permitting brawl on premises	----- 1	
Cases instituted at Division	-----	23
Violations involved	-----	41
Sale during prohibited hours	----- 6	Sale to intoxicated person
Solicitor-permittee engaging in conduct prohibited to employer	----- 6	Permitting bookmaking on premises
Furnishing unlawful inducements to retailer	----- 5	Permitting lottery activity (numbers)
Sale to minors	----- 4	Failure to have copy of license application on premises
Hindering investigation	----- 3	Employee without requisite identification card (local reg.)
Sale below minimum resale price	----- 2	Permitting gambling (cards) on premises
Failure to file notice of default	----- 2	Failure to file notice of change in permit application
Sale on credit to retailers in default	----- 2	Possessing liquor not truly labeled
Failure to close premises during prohibited hours	----- 1	
Permitting immoral activity on premises	----- 1	
Permitting foul language on premises	----- 1	
Cases brought by municipalities on own initiative and reported to Division	-----	16
Violations involved	-----	21
Sale to minors	----- 10	Hindering investigation
Permitting brawl on premises	----- 4	Permitting gambling on premises
Sale during prohibited hours	----- 2	Sale to intoxicated person
Failure to display license certificate	----- 1	Permitting foul language on premises
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	33
Appeals	----- 3	Seizures
Disciplinary proceedings	----- 22	Tax revocations
Eligibility	----- 4	
STATE LICENSES AND PERMITS ISSUED:		
Total number issued	-----	1,276
Licenses	----- 2	Wine permits
Employment permits	----- 73	Miscellaneous permits
Solicitors'	----- 36	Transit insignia
Disposal	----- 54	Transit certificates
Social affair	----- 333	

9. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JULIA MARCINCIN)
732 River Drive)
Garfield, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-4, issued by the Mayor and Council of the City of Garfield.)

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

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that on Sunday, September 14, 1958, she (1) sold, served and delivered, and allowed, permitted and suffered the sale, service and delivery and consumption of alcoholic beverages on her licensed premises during prohibited hours, and (2) failed to have her entire licensed premises closed, and permitted persons other than herself or bona fide employees to remain there during said hours, both in violation of a local ordinance.

An ordinance of the City of Garfield prohibits the sale, service, delivery and consumption of alcoholic beverages on Sundays between the hours of 5:00 a.m. and noon (except New Year's Day) and requires that the entire licensed premises shall be closed between said hours and that no person other than the licensee or bona fide employees of the licensee shall be admitted or permitted to remain therein during such hours.

On Sunday, September 14, 1958, at about 10:45 a.m., two ABC agents observed two men gain admission to the premises through the rear door entrance. A few moments thereafter one of the agents presented himself at such door which was locked. In response to the agent's knock at the door, the son of the licensee, who was employed there as bartender, opened the door. The agent asked for a drink of whiskey to which the bartender replied that the place was not open for business. Nevertheless, the agent gained admission through the rear door which opened into a room in which there were several tables and chairs. (The entire first floor is designated as licensed premises in the licensee's application for license.) The two men whom the agents had observed entering the premises were seated at a table in this room, one with the remainder of what appeared to be a drink of whiskey in front of him, and the other with a partially consumed bottle of beer. The licensee was also present. The agent summoned the other agent who had remained outside and both agents identified themselves.

The two men told the agents that the drinks of alcoholic beverages had been purchased by them shortly before the agents entered. The bartender and the licensee verbally admitted that such was the fact.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days. Re Funicelli and Falvo, Bulletin 1231, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 21st day of October, 1958,

ORDERED that Plenary Retail Consumption License C-4, issued by the Mayor and Council of the City of Garfield to Julia Marcincin, for premises 732 River Drive, Garfield, be and the same is hereby suspended for ten (10) days, commencing at 4:00 a.m. October 27, 1958, and terminating at 4:00 a.m. November 6, 1958.



William Howe Davis
Director