

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

BULLETIN 1308

November 12, 1959

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

BULLETIN 1308

November 12, 1959

1. APPELLATE DECISIONS - HARRISON WINE & LIQUOR CO., INC. v.
HARRISON (Case No. 2).

Case No. 2.)	
HARRISON WINE & LIQUOR CO., INC.,)	
Appellant,)	ON APPEAL
)	CONCLUSIONS
v.)	AND ORDER
)	
TOWN COUNCIL OF THE TOWN OF)	
HARRISON,)	
)	
Respondent.)	

Joseph D'Alessio, Esq., Attorney for Appellant.
Joseph P. DiSabato, 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 June 16, 1959, it allegedly denied appellant's application for renewal of its planary retail distribution license for the 1959-60 licensing year for premises located at 202 Harrison Avenue, Harrison.

"Upon the filing of the appeal, the Director entered an order on June 30, 1959 extending the term of appellant's 1958-59 license until further order herein.

"In its petition of appeal, appellant alleged inter alia that respondent's action was erroneous in that no reason was given for denying the application.

"Respondent, in its answer, contends that its action 'was based on proper consideration of the facts involved in connection with same'.

"When the matter came on for hearing, it was stipulated that on June 18, 1959 respondent's Clerk verbally informed appellant's attorney that the application in question 'had just been introduced and laid there...that nothing was done on it one way or the other' and 'that to all intents and purposes the application was not approved'.

"Charles Barbaz, secretary and treasurer of appellant corporation, testified that appellant has held a license for the past six years. He further testified that, acting upon a suggestion made to his attorney by respondent's Clerk, he addressed a letter to the Clerk and received the following reply:

'June 23, 1959.

Harrison Wine & Liquor Co.,
202 Harrison Avenue
Harrison, N. J.

Gentlemen:

In reply to your recent letter, please be advised that at their meeting of June 16th, the

governing body did not approve your application for renewal of plenary retail distribution license #D-5.

Very truly yours,

(signed) Charles A. Farley
Town Clerk.'

"Barbaz testified further that he was never told why the application was not approved; that he has been in the liquor business for a period of 16 years; that for six of those years he conducted appellant's business in Harrison; that \$29,500 was paid for said business, of which amount a large sum is still owing and that appellant's license was suspended by respondent for 30 days in 1957 and 180 days in 1958. It appears that the first suspension involved sale to a 20-year-old minor and the second suspension involved sale to an 18-year-old minor. Harrison Wine & Liquor Co., Inc. v. Harrison, Bulletin 1296, Item 2.

"After a cursory cross-examination of the witness, the parties hereto rested. It was then stipulated that respondent denied the renewal application of another licensee and that after an appeal was taken therefrom and later withdrawn with respondent's consent, said application was granted subject to the serving of a previously imposed suspension against the license and, apparently, upon condition that the license be transferred to another person.

"The evidence herein clearly establishes that no reason was given by respondent for rejecting appellant's application and no specific reason for respondent's action is set forth in the answer filed herein. As was stated in Rosenvinge v. Metuchen, Bulletin 249, Item 6, 'The fair, four square, American way of dealing with one's fellow men in judicial capacity is not only to give them a chance to be heard, but also if it is necessary to render a decision against them to state the reasons for so doing.'

"From the facts and circumstances appearing in this case, I conclude that respondent's action was equivalent to a denial of the application for renewal and that said action was arbitrary and unreasonable. Cf. The Great Atlantic & Pacific Tea Company v. Manasquan, Bulletin 87, Item 10. I therefore recommend that said action be reversed and that respondent be directed to grant appellant's application, subject to the 180-day suspension previously imposed, which suspension will expire at 9:00 a.m., February 2, 1960. See Harrison Wine & Liquor Company, Inc. v. Harrison, supra."

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

Having carefully considered the facts and circumstances herein, I concur in the Hearer's findings and conclusions and adopt his recommendation.

Accordingly, it is, on this 6th day of October, 1959,

ORDERED that the action of respondent Town Council be and the same is hereby reversed and respondent is hereby directed to grant appellant's application for renewal of its Plenary Retail Distribution License for the 1959-60 license year, subject to the 180-day suspension previously imposed, which suspension will expire at 9:00 a.m., Tuesday, February 2, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED -
 LICENSE SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA, DATES TO BE
 FIXED BY FURTHER ORDER.

In the Matter of Disciplinary)
 Proceedings against)

JERRY SHEEHAN, INC.)
 t/a "JERRY SHEEHAN'S BEACH PALACE")
 Pineview Avenue)
 Keansburg, N. J.)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption)
 License C-18, issued by the Borough)
 Council of the Borough of Keansburg.)

 George Elliot Ostrov, Esq., Attorney for Defendant-licensee.
 David S. Piltzer, Esq., Appearing for the Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

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

On June 25, 1959 an ABC agent tested the licensee's open stock of liquor and seized a number of bottles for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of fifteen bottles, labeled "Seagram's Seven Crown American Blended Whiskey 86 Proof", varied substantially from samples of the genuine product. Specifically, the contents of four bottles were high in solids and low in acids, the contents of eight bottles were high in solids and the contents of three bottles were high in solids and acids.

The president of the corporate licensee denied tampering with the contents of the seized bottles and his son stated that possibly defendant's six or seven bartenders refilled the bottles in order to save time. However, it is axiomatic that a licensee must be held responsible for violations committed by his employees. A patron is entitled to get what he orders and it is the licensee's responsibility to see that he does.

Defendant has no prior adjudicated record. I shall suspend its license for a period of fifty days. Re Broad and Kinney Bar, Inc., Bulletin 1286, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of forty-five days.

Investigation discloses that defendant's business is not now normally being operated. No effective penalty can be imposed at this time. A further order fixing effective dates will be entered by me after the licensed premises shall have re-opened for business in 1960.

Accordingly, it is, on this 1st day of October 1959,

ORDERED that Plenary Retail Consumption License C-18, issued by the Borough Council of the Borough of Keansburg to Jerry Sheehan, Inc., t/a "Jerry Sheehan's Beach Palace", for premises Pineview Avenue, Keansburg, be and the same is hereby suspended for forty-five (45) days, the effective time and date to be fixed by subsequent order.

WILLIAM HOWE DAVIS
 DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE BY RETAILER TO RETAILER - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA..

In the Matter of Disciplinary
Proceedings against

MANSUETO, INC.
377 - 15th Avenue and corner store
Newark, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-202, issued by the Municipal
Board of Alcoholic Beverage Control of
the City of Newark.

Mansueto, Inc., Defendant-licensee, by Barney Mansueto, President.
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 divers days from on or about November 4, 1958 to on or about May 4, 1959, you, holder of a New Jersey plenary retail consumption license without authority of special permit first obtained from the Division of Alcoholic Beverage Control, sold numerous cases and bottles of alcoholic beverages, viz., Gallo brand wines of various kinds, to Arthur J. Pedota, t/a Art's Liquors, holder of a plenary retail distribution license for premises 71 Main Street, Millburn, New Jersey; in violation of Rule 15 of State Regulation No. 20.
- "2. On divers days from about November 4, 1958 to March 31, 1959, you sold, at retail, numerous cases and bottles of alcoholic beverages, viz., Gallo brand wines of various kinds, 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.
- "3. On divers days from April 1, 1959 to on or about May 4, 1959, you sold and offered for sale, at retail, directly or indirectly, numerous cases and bottles of alcoholic beverages, viz., Gallo brand wines of various kinds, at less than the prices thereof filed with the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30."

The investigation of this case disclosed that the licensee, without first obtaining a special permit from this Division, sold fifteen cases of Gallo brand wines on divers days between November 4, 1958 and May 4, 1959 to Arthur J. Pedota, another retail licensee. The file discloses that said sales were made at less than the minimum consumer resale price then in effect for said alcoholic beverages.

The file further disclosed that on divers days between April 1, 1959 and May 4, 1959 the licensee sold at retail numerous cases

and bottles of Gallo brand wines of various kinds at less than the prices thereof filed with the Director of this Division.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days on Charge 1 (Cf. Re Pedota, Bulletin 1294, Item 5) and for an additional twenty days on Charges 2 and 3 because of the substantial quantity involved (Re The Hamilton Bar, Inc., Bulletin 1219, Item 8), making a total suspension of 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 5th day of October 1959,

ORDERED that Plenary Retail Consumption License C-202, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Mansueto, Inc., for premises 377 - 15th Avenue and corner store, Newark, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m., Tuesday, October 13, 1959 and terminating at 2:00 a.m., Tuesday, November 17, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - OBSCENE LANGUAGE -
HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 35 DAYS,
LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

MANN'S MANOR, A CORP.
131-133 Howard Street
Newark 3, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-684, issued by the Municipal
Board of Alcoholic Beverage Control of
the City of Newark.

Defendant-licensee, by Bessie Hicks, Treasurer, and Kay Mavraides,
Secretary.

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On Friday night July 17, 1959, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Jeanette ---, age 19 and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.
- "2. On Friday night July 17, 1959, you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises, in violation of Rule 5 of State Regulation No. 20.

- "3. On Friday night July 17, 1959 and early Saturday morning July 18, 1959, you, through your agents, servants, employees and other persons in your behalf, failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation, inspection and examination at your licensed premises then and there being made by Investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of R.S. 33:1-35."

On Friday, July 17, 1959, at about 11:35 p.m., ABC agents at defendant's licensed premises observed Richard Slappy (one of four bartenders on duty) serve a bottle of beer to each of four females who appeared to be minors. After these young women consumed a portion of their drinks, the agents identified themselves and learned that one of them was Jeanette ---, 19 years of age. One of the agents thereupon seized the remaining portion of Jeanette's drink for evidential purposes, poured it into a bottle and placed it on the bar. Because of the large number of patrons in the barroom, the agents escorted the four young women to a rear room to take their statements. One of the agents returned to the barroom to retrieve the sample bottle containing the evidence. Upon inquiry from one of the bartenders, the agent learned the bottle had been removed from the bar along with other receptacles thereon. The agent then returned to the rear room to take a statement from Jeanette. Present at the time were LeRoy Sellers (president of the corporate licensee), Peter Mann (a bartender) and Jack Hicks (manager), all of whom, by certain signals and remarks directed towards Jeanette while being interviewed by the agents, dissuaded her from making a written statement.

The investigation further discloses that many of the patrons freely indulged in filthy and obscene language in the presence of Mr. Sellers and the bartenders, none of whom made any attempt to stop the same.

I shall suspend defendant's license for fifteen days on Charge 1 (Re Gellner, Bulletin 1291, Item 4); for ten days on Charge 2 (Re Walczak, Bulletin 1256, Item 5); for ten days on Charge 3 (Re Paul's Tavern, Inc., Bulletin 1277, Item 12), making a total suspension 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 7th day of October, 1959,

ORDERED that Plenary Retail Consumption License C-684, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Mann's Manor, A Corp., for premises 131-133 Howard Street, Newark, be and the same is hereby suspended for thirty (30) days, commencing at 2 a.m. Monday, October 19, 1959, and terminating at 2 a.m. Wednesday, November 18, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

5. RECAPITULATION OF ACTIVITY FOR QUARTERLY PERIOD FROM JULY 1, 1959 THROUGH SEPTEMBER 30, 1959

	JULY	AUG.	SEPT.	TOTAL
ARRESTS:				
Total number of persons arrested	43	27	28	98
Licensees and employees	19	14	16	49
Bootleggers	24	12	12	48
ABC agent impersonators	-	1	-	1
SEIZURES:				
Motor vehicles - cars	4	-	3	7
- trucks	1	-	-	1
- trailers	-	-	1	1
Stills - over 50 gallons	-	-	1	1
- 50 gallons or under	-	-	2	2
Mash - gallons	-	-	1,800.00	1,800.00
Distilled alcoholic beverages - gallons	35.61	6.03	257.57	299.21
Wine - gallons	7.95	11.50	33.50	52.95
Brewed malt alcoholic beverages - gallons	106.39	14.06	14.53	134.98
RETAIL LICENSEES:				
Premises inspected	563	328	417	1,308
Premises where alcoholic beverages were gauged	412	593	475	1,480
Bottles gauged	7,500	10,514	8,606	26,620
Premises where violations were found	64	37	40	141
Violations found	105	57	61	223
Unqualified employees	75	33	38	146
Application copy not available	19	14	12	45
Reg. #38 sign not posted	5	2	2	9
Prohibited signs	1	-	5	6
Other mercantile business	-	3	2	5
Improper beer taps	1	-	-	1
Disposal permit necessary	1	-	-	1
Other violations	3	5	2	10
STATE LICENSEES:				
Premises inspected	15	47	45	107
License applications investigated	11	15	8	34
COMPLAINTS:				
Complaints assigned for investigation	512	427	450	1,389
Investigations completed	467	431	432	1,330
Investigations pending	(194)	(194)	195	195
LABORATORY:				
Analyses made	400	416	360	1,176
Refills from licensed premises - bottles	90	75	87	252
Bottles from unlicensed premises	60	130	95	285
IDENTIFICATION:				
Criminal fingerprint identifications made	30	15	11	56
Persons fingerprinted for non-criminal purposes	408	253	224	885
Identification contacts made w/other enforcement agencies	328	202	177	707
Motor vehicle identifications via N. J. State Police teletype	4	14	3	21
DISCIPLINARY PROCEEDINGS:				
Cases transmitted to municipalities	10	17	16	43
Violations involved	12	19	17	48
Sale during prohibited hours	6	12	10	28
Sale to minors	4	3	4	11
Failure to close premises during prohibited hours	2	2	-	4
Sale to non-members by club	-	-	3	3
Act of violence on premises	-	1	-	1
Failure to afford view into prem. during prohibited hours	-	1	-	1
Cases instituted at Division	39	30	48	117
Violations involved	48	59	70	177
Sale to minors	12	4	14	30
Possessing liquor not truly labeled	8	8	10	26
Sale during prohibited hours	7	-	9	16
Permitting lottery activity (drawing, numbers, sweepstakes)	4	2	6	12
Permitting bookmaking on premises	1	2	6	9
Hindering investigation	1	3	4	8
Possessing contraceptives on premises	1	2	3	6
Sale below minimum resale price	1	3	2	6
Possessing indecent matter	1	3	2	6
Permitting immoral activity on premises	2	-	3	5
Purchase from improper source	1	4	-	5
Unauthorized transportation	-	5	-	5
Conducting business as a nuisance	3	-	1	4
Sale to intoxicated persons	-	3	1	4
Delivery without bona fide invoice	-	3	-	3
Permitting lic. prem. to be used in connection w/illegal activity	-	3	-	3
Aiding and abetting unauthorized transportation	-	3	-	3
Sale outside scope of license	-	2	1	3
Permitting gambling (wagering, cards) on premises	-	-	3	3
Sol'r engaging in conduct prohibited to employer	1	1	-	2
Aiding and abetting unauthorized sale	1	1	-	2
Permitting foul language on premises	-	2	-	2
Fraud and front	-	-	2	2

	<u>JULY</u>	<u>AUG.</u>	<u>SEPT.</u>	<u>TOTAL</u>
DISCIPLINARY PROCEEDINGS (Continued)				
Cases instituted at Division (Continued)				
Violations involved:				
Mislabeled beer taps	1	-	-	1
Failure to file tax reports	1	-	-	1
Retailer to retailer sales	1	-	-	1
Sale on credit to retailer in default	1	-	-	1
Unlicensed storage	-	1	-	1
Unlicensed sale by solicitor	-	1	-	1
Furnishing unlawful inducements to retailers	-	1	-	1
Accepting delivery on credit while in default	-	1	-	1
Substituting drink other than ordered	-	1	-	1
Failure to file notice of change in application	-	-	1	1
Unqualified employee	-	-	1	1
Sale to non-members by club	-	-	1	1
Cases brought by municipalities on own initiative and reported to Division:	16	13	20	49
Violations involved:	18	20	24	62
Sale to minors	11	6	13	30
Permitting brawl on premises	2	1	4	7
Sale during prohibited hours	-	3	3	6
Failure to close premises during prohibited hours	1	1	2	4
Permitting immoral activity on premises	-	3	1	4
Hindering investigation	1	2	-	3
Permitting prostitutes on premises	1	2	-	3
Permitting bookmaking on premises	1	-	1	2
Sale to intoxicated persons	1	-	-	1
Failure to afford view into prem. during prohibited hours	-	1	-	1
Conducting business as a nuisance	-	1	-	1
HEARINGS HELD AT DIVISION:				
Total number of hearings held	48	59	64	171
Appeals	7	6	11	24
Disciplinary proceedings	32	37	38	107
Eligibility	3	7	7	17
Seizures	6	5	3	14
Tax revocations	-	2	3	5
Applications for license	-	2	2	4
STATE LICENSES AND PERMITS ISSUED:				
Total number issued	2,293	1,151	1,407	4,851
Licenses	601	4	4	609
Solicitors' permits	101	35	50	186
Employment "	405	253	236	894
Disposal "	103	60	97	260
Social affair "	397	417	433	1,247
Miscellaneous "	251	113	241	605
Transit insignia	397	250	324	971
Transit certificates	38	19	22	79

WILLIAM HOWE DAVIS
DIRECTOR

Dated: October 8, 1959

6. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PRIOR RECORD - LICENSE
SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary
Proceedings against

DORA E. RIDDLE, EXECUTRIX OF THE
ESTATE OF JOSEPH RIDDLE, WILLIAM
RIDDLE AND WILLIAM SCHRAMM
s/e Cor. Del Sea Drive & Taras Ave.
Deptford Township
PO RD Westville, N. J.

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption
License C-15 for the 1958-59 and 1959-
60 licensing years, issued by the
Township Committee of Deptford Township.

Alfred T. Sanderson, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendants pleaded not guilty to a charge alleging that on
May 10, 1959 they sold alcoholic beverages to a minor and permitted
the consumption of such beverages by said minor in defendants'
licensed premises, in violation of Rule 1 of State Regulation No. 20.

"James ---, age 17, testified that on the above date, at about
9:00 p.m., he and George ---, age 19, drove to defendants' licensed
premises, entered the same and went to the bar; that the place was
crowded and two bartenders were behind the bar, one of whom was David T.
Smith; that during their stay at the premises James and George ordered
and each was served with a total of six glasses of beer by Smith; that
shortly before they left, James ordered seven half-gallons of beer; that
Smith filled seven cardboard containers with beer, placed them on the
counter or the bar; that James paid Smith \$7 for the beer and he and
George left the premises with the beer and that neither he nor George
were asked how old they were or required to sign any representation that
they were 21 years of age. It further appears that after the minors left
the tavern they drove around and were stopped at about midnight at some
distance from the licensed premises and that at the time they were
stopped there remained one unopened container of beer in the car.
George concurred in James' account of the purchase and consumption
of the beer by the two minors at defendants' licensed premises on
the date in question.

"An ABC agent testified that on May 12, 1959 James and George
directed and accompanied him to defendants' licensed premises, which
they identified from the exterior as the premises where they had
purchased beer on May 10th and described the interior; that the agent
and the minors entered the premises, at which time William Schramm,
one of the licensees, was present; that Schramm stated that he and
Smith were on duty on May 10th; that the minors did not identify
Schramm as the bartender who served them the beer; that the agent
returned with the minors on May 17th; that Smith was one of the
persons present and the minors identified Smith as the bartender who
had served and sold the beer to them on May 10th; that thereupon,
Smith claimed he had never seen the minors and had not sold the beer
to them.

"On the licensees' behalf, William Schramm testified that there are two cash registers in use on the licensed premises; that the register used by Smith does not register any amount over \$3 and, therefore, a \$7 sale on the tape of his register would consist of two \$3 and one \$1 items and that the tape of Smith's register for the evening in question does not disclose any such items; that the tape on Schramm's register does not disclose a \$7 sale; further that the price of a glass of beer after 6:00 p.m. when the band is performing is fifteen cents and not ten cents, the price which the minors claimed they paid for the beer; that he never saw the minors previous to May 12, 1959. It appears that Schramm had scrutinized the tapes in question between May 12th and May 17th, but did not tell the agent on May 17th that such tapes did not disclose a \$7 sale.

"David Smith, in his testimony, reiterated that he had not sold the beer to the minors and had never seen them before May 17, 1959.

"Defendants' counsel alleges that the minors were mature in appearance, were unable to identify the containers of the beer and that it is illogical to believe that the two minors would have six glasses of beer there then purchase $3\frac{1}{2}$ additional gallons of beer for their sole consumption; that they were shielding some other person. The answer is that the minors in fact were 17 and 19 years of age; that James described the containers as white cardboard; that George added that they had a red mark thereon, and finally that they could not be shielding another person when, as they claimed, they drank six glasses of beer apiece.

"It seems clear that the primary defense to the charge was based on the claimed absence of the \$7 item on the cash register tapes. However, there are myriad reasons why such item might not appear on the tapes, if in fact it did not, and, therefore, such claimed absence, of itself, cannot overcome the direct and positive testimony of the minors that they purchased glasses of beer at the premises and then purchased the seven containers which they carried off the premises.

"I am of the opinion that the preponderance of the believable evidence establishes the guilt of the defendants of the charge and I recommend a finding to that effect.

"Defendant has a previous adjudicated record. Effective May 19, 1958 defendants' license was suspended for five days for sale of alcoholic beverages at less than the effective minimum consumer resale price. Re Riddle and Schramm, Bulletin 1231, Item 6. I recommend that defendants' license be suspended for twenty days, the minimum suspension for sale to two minors, one of whom is only 17 years of age, to which should be added five days for the dissimilar violation within the past five years, making a total suspension of twenty-five days. Re Doornbos, Bulletin 1286, Item 6."

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 record herein, and the Hearer's Report, it appears to me that based upon the quantity of beer the minors purchased and consumed, more than the minimum penalty might well have been imposed. Nevertheless, I shall accept the Hearer's recommendation as to penalty and, hence, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 6th day of October 1959,

ORDERED that Plenary Retail Consumption License C-15 for the 1959-60 licensing year, issued by the Township Committee of Deptford Township to Dora E. Riddle, Executrix of the Estate of Joseph Riddle, William Riddle and William Schramm, t/a Half Way Inn, for premises s/e Cor. Del Sea Drive & Taras Ave., Deptford Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m., Monday, October 19, 1959 and terminating at 2:00 a.m., Friday, November 13, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED -
LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

HELEN SHEA)
t/a MIAMI BEACH INN)
Bayshore Road and Florida Avenue)
Lower Township, PO Villas, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-5, issued by the Township)
Committee of Lower Township.)

Perskie and Perskie, Esqs., by Marvin D. Perskie, 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 she possessed on her 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.

On July 28, 1959, an ABC agent tested the licensee's open bottles of alcoholic beverages and seized a number of bottles for further tests by the Division's chemist, which tests disclosed that the contents of five of said bottles, when compared with the samples of the genuine product of the labeled brands, varied substantially in acids and solids.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty-five days, the minimum period where five bottles are involved. Re Dolan, Bulletin 1267, Item 10. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is on this 1st day of October 1959,

ORDERED that Plenary Retail Consumption License C-5, issued by the Township Committee of Lower Township to Helen Shea, t/a Miami Beach Inn, for premises at Bayshore Road and Florida Avenue, Lower Township, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, October 13, 1959, and terminating at 2 a.m. Monday, November 2, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING THAT DEFENDANT PERMITTED OBSCENE LANGUAGE AND CONDUCT DISMISSED - SALE TO INTOXICATED PERSON - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary
Proceedings against

EMERALD BAR & LIQUORS', INC.
12 South Broad Street
Elizabeth 4, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-175 (for the 1958-59
licensing year), issued by the
Municipal Board of Alcoholic Beverage
Control of the City of Elizabeth.

Daniel J. O'Hara, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charges:

- '1. On Wednesday night April 29th and early Thursday morning April 30, 1959, you allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20.
- '2. On Wednesday night April 29th and early Thursday morning April 30, 1959, 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 alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.'

"The evidence given at the hearing herein discloses that two ABC agents entered defendant's premises on April 29, 1959 at about 11:25 p.m. Things were very quiet. There were three or four male patrons and one female patron (referred to herein as Mrs. V) then in the premises. Jeremiah Bergin, the sole bartender, was playing pool with James Hoey, one of the patrons. The agents went to the bar. The bartender went behind the bar, served them with drinks and then returned to the pool game. Shortly thereafter, Dan Stout and a woman (referred to herein as Mrs. H) entered the premises. Both agents testified that the woman's hair was dissheveled; that her face was flushed and that she staggered towards a near-by table and slumped in a chair at the table. In fact, James Hoey, the patron, testified that, while he would not say the woman was intoxicated, her hair was all messed up and that, as she entered, he said to one of the agents: 'Look at the mess coming in the door.' The agents testified that when the woman entered the bartender said: 'Oh, no.' The agents further testified that, after the woman had been seated a short time, Stout had to support her as she went to and returned from the ladies' room and each testified that, in his opinion, she was apparently intoxicated. The woman remained on the premises for

about one hour and the bartender admits that during this period he served two glasses of beer on three occasions to Stout, who, on each occasion, carried one of the glasses to the table where the woman consumed the beer. His testimony as to the service and consumption is substantially the same as that given by the agents.

"The evidence herein further discloses that while Mrs. H was seated at the table, Mrs. V came to the table and used some indecent language but it appears that, at this time, the bartender was twenty feet away and playing pool. There is some evidence that Mrs. V conversed with one of the agents at the bar concerning illicit sexual intercourse, but there is no evidence that the bartender was in a position to hear this conversation and he denies that he heard it. Additionally, there is some evidence that later Mrs. V and James Hoey used some indecent language and that she grabbed him by the privates while they were conversing at the bar. However, while the agents testified that the bartender was then behind the bar in the vicinity of these patrons, they admit that the bartender did not participate in the conversation. The bartender testified that he did not hear the conversation between Mrs. V and James Hoey and did not observe any indecent conduct.

"After reviewing the testimony, I conclude that the evidence is insufficient to establish defendant's guilt as to Charge 1 and recommend that defendant be found not guilty as to said charge. I conclude that the evidence is clearly sufficient to establish defendant's guilt as to Charge 2 insofar as said charge refers to the delivery of alcoholic beverages to and consumption thereof by Mrs. H. It is recommended, therefore, that defendant be found guilty as to Charge 2. Defendant has no prior adjudicated record. It is further recommended that an order be entered suspending the license now held by defendant for a period of fifteen days.
Re Golden Slipper, Inc., Bulletin 1268, Item 7."

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

After carefully reviewing the evidence and considering the brief submitted by defendant's attorney after the testimony was taken herein, I concur in the conclusions of the Hearer and adopt said conclusions as my conclusions herein.

Accordingly, it is, on this 5th day of October 1959,

ORDERED that Plenary Retail Consumption License C-175 (for the 1959-60 licensing year), issued by the City Council of the City of Elizabeth to Emerald Bar & Liquors', Inc., for premises 12 South Broad Street, Elizabeth, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Tuesday, October 13, 1959, and terminating at 2 a.m. Wednesday, October 28, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary
Proceedings against

SOPHIE ZEBROWSKI & RICHARD ZEBROWSKI
t/a PARK INN
Norman Avenue & St. Mihiel Drive
Delran Township
PO Riverside Park, N. J.

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption
License C-3, for the 1958-59 licensing
year, issued by the Township Committee
of Delran Township, which license has
been renewed for the 1959-60 licensing
year in the names of

SOPHIE DIBLIN (nee Zebrowski) and
RICHARD ZEBROWSKI

for the same premises.

Worth & Worth, Esqs., by Herbert L. Worth, Esq., Attorneys
for Defendant-licensees.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendants pleaded not guilty to a charge alleging that they sold and delivered and permitted the sale and delivery of alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20.

"Abner --- testified that when he visited defendants' licensed premises on May 3, 1959 he was twenty years of age, having been born February 12, 1939; that while his three companions remained outside the defendants' premises, he entered the service room from the 'ladies entrance'; that a man whom he identified as Richard Zebrowski, one of the defendant-licensees (hereinafter referred to as Richard), came from the adjoining barroom and asked him what he would have; that he (Abner) ordered 'four quarts of beer'; that he watched Richard pour the beer from a 'spigot' into four cardboard containers and place the containers in two bags; that Richard handed him the beer and, after paying Richard \$2 for the beer, he (Abner) left the premises; that he went across the railroad tracks, joined his 'buddies' and all proceeded to the Acme parking lot where they climbed into his uncle's truck and drank the beer; that thereafter, the four went for a ride in the truck and 'about an hour and a half' later returned to the vicinity of defendants' premises and parked the truck in front thereof; that as he had done on the previous visit that night, Abner used the same entrance to defendants' establishment; that Richard again waited on him, fulfilling his (Abner's) order for three quarts of beer in cardboard containers and accepting payment of \$1.50 in payment therefor; that he was not questioned by Richard with reference to his age.

"James --- testified that he and two other youths remained across the street from the defendants' licensed premises when Abner crossed the tracks and entered the 'ladies entrance' of the establishment; that thereafter he saw Abner come out of the premises carrying

two bags containing beer and then all proceeded to the truck owned by Abner's uncle in which the beer was consumed; that after taking a ride in the truck they returned to defendants' premises and Abner again entered and emerged therefrom with 'a bag, two bags, I'm not sure', and after Abner reached the truck which had been parked outside the premises, they drove it to the place where it had originally been in the Acme parking lot when he (James) and the other two youths drank the beer.

"An ABC agent testified that Abner, James and another youth directed him to defendants' licensed premises where he and Abner entered the service room through the 'ladies entrance'; that Richard came into the room and was identified by Abner as the person who sold him the cartons of beer on May 3rd; that Richard denied ever seeing Abner before that date as did Frank Yansick, who said that he was also tending bar on the night in question.

"Richard testified that he was tending bar on the night of May 3rd but that he did not serve Abner that night because he had never seen Abner until May 12th when he came into the premises with the agent; that when the agent asked Abner who had served him on May 3rd, he pointed to me (Richard) and when I said, 'Who served you?', Abner said, 'No, it wasn't you, it was him', pointing to Yansick; that on the night in question, between 10:00 o'clock and midnight, he sold between 20 and 30 containers of beer; that he could not remember the names of all those who purchased cartons of beer that night because some of the people he had never seen before.

"Frank Yansick testified that he was on duty as a bartender on May 3rd but had never seen Abner in the premises that night; that on May 12th when Abner came into the premises in the company of the agent, after pointing to Richard he accused him (Yansick) of selling him the cartons of beer.

"The attorney representing defendants at the hearing herein objected to Abner being permitted to testify as to his age on the ground that such testimony is hearsay. However, the courts have ruled that a person is competent to testify to his own age. State v. Huggins, 83 N.J.L. 43; State v. Koettgen, 89 N.J.L. 678; State v. Girone, 91 N.J.L. 498.

"I am satisfied that Abner identified Richard as the person who made the sale of the cartons of beer on both visits to defendants' licensed premises on May 3rd. Even if any doubt may exist as to the identification by the minor of the one making the sale, the Division has held that failure to identify the person is not vital to establish guilt in disciplinary proceedings. Re LaCorte, Bulletin 469, Item 1; Re Cohen, Bulletin 495, Item 6; Re Dante, Bulletin 771, Item 9.

"I have carefully considered the testimony of the witnesses herein and am of the opinion that Abner visited the defendants' licensed premises on two occasions on May 3rd and was sold the cartons of beer which he alleged he purchased. James saw him each time he entered and when he emerged from the premises carrying the bags containing cartons of beer. Under the circumstances, I recommend that the defendants be adjudged guilty of the charge preferred herein.

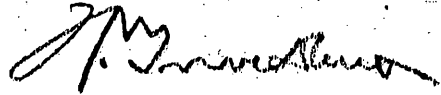
"Defendant has no prior adjudicated record. The minimum suspension in an unaggravated case of sale of alcoholic beverages to a twenty-year-old minor is ten days (Re Murtagh, Bulletin 1287, Item 9). I recommend that defendants' license be suspended for a period of ten days."

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

After carefully considering the facts and circumstances herein, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 30th day of September 1959,

ORDERED that Plenary Retail Consumption License C-3 for the 1959-60 licensing year, issued by the Township Committee of Delran Township to Sophie Diblin (nae Zebrowski) and Richard Zebrowski, t/a Park Inn, for premises on Norman Avenue & St. Mihiel Drive, Delran Township, be and the same is hereby suspended for ten (10) days, commencing at 1:00 a.m., Tuesday, October 13, 1959 and terminating at 1:00 a.m., Friday, October 23, 1959.



William Howe Davis
Director