

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

BULLETIN 1427

January 9, 1962

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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 1427

January 9, 1962

1. APPELLATE DECISIONS - BONSPER v. NEWARK.

MARIE R. AND PAUL E. BONSPER,)
t/a BONSPER'S BAR,)

Appellants,)

v.)

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY OF)
NEWARK,)

Respondent.)

ON APPEAL
CONCLUSIONS
AND ORDER

George R. Sommer, Esq., Attorney for Appellants.
Vincent P. Torppey, Esq., by Richard A. Walsh, Esq., Attorney for
Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Board whereby, on May 17, 1961, it suspended appellants' license for fifteen days, effective May 22, 1961, after finding appellants guilty of a charge alleging that on December 17, 1960 they sold alcoholic beverages to and permitted the consumption of such beverages by an 18-year-old minor in and upon their licensed premises, in violation of Rule 1 of State Regulation No. 20.

"Upon the filing of the appeal, an order dated May 19, 1961 was entered by the Director staying the effect of respondent's order of suspension until the entry of a further order herein. R.S. 33:1-31.

"In their petition of appeal, appellants allege that respondent's action was erroneous in that (a) it was contrary to the evidence, (b) it was contrary to the weight of the evidence, (c) respondent failed to consider the evidence and testimony of the witnesses for the appellants, (d) the evidence showed that appellants were not guilty of the violation charged, (e) that respondent acted arbitrarily and capriciously in deciding against appellants in view of its action in dismissing charges against another licensee based upon the testimony of the minor involved in the charges against appellants and (f) the respondent erred in its judgment in finding appellants guilty of the charge and in divers other ways was wrong in coming to its conclusion that appellants were guilty of the charge.

"Respondent in its answer, contends that 'the grounds upon which the issuing authority made its decision were based upon the factual testimony before the Board from which it, in its sound discretion, concluded that the penalty imposed substantiated such action.'

"At the instant hearing held on July 6, 1961, the transcript of the proceedings before respondent Board was received in evidence and also additional testimony was presented by appellants, pursuant to Rule 8 of State Regulation No. 15.

"At the hearing before the respondent, Police Officer John Rogiewicz testified that on December 18, 1960, as a result of his

interview with Elpidio ---, the minor in question, the latter accompanied him to defendants' licensed premises where the minor identified appellant Marie Bonsper as the person who sold and served alcoholic beverages to him on December 17, 1960.

"Elpidio testified that he was born on May 4, 1942; that at 5:00 p.m. on December 17, 1960, he entered appellants' licensed premises and remained there until 9:00 p.m.; that on five or six occasions during his stay in the premises he purchased and consumed 'Seagram 7 and beer'.

"Appellant Marie Bonsper testified that at 6:00 p.m. on the date in question, Elpidio came into the licensed premises for a period of one-half hour; he engaged in conversation with her and other persons before leaving the premises; that she knew Elpidio and also his father, who had told her not to serve alcoholic beverages to his son; that the topic of her conversation with Elpidio was that he should behave himself and not make any further trouble for his father; that she closed the licensed premises 'at a quarter to eight' and then she and Fred Mildenberg went to a concert in Montclair, arriving at her home from the affair at 11:30 p.m.; that about 1:15 a.m. she received a telephone call that the licensed premises had been broken into and that the police had apprehended Elpidio as the person committing the offense; that on Monday (December 19, 1960) she spoke to Elpidio at Police Headquarters and when he threatened that he would make it hard for her if she pressed the complaint, she said, 'I am not going to press no charges because I don't know who robbed me.'

"Fred Mildenberg testified that he visited appellants' premises 'a little after six' on December 17, 1960 for the purpose of driving appellant Marie Bonsper and another gentleman to a concert where Mrs. Bonsper was to meet her daughter and son-in-law; that about fifteen minutes after his arrival he saw Elpidio enter and talk to 'some friends around the bowling game table'; that Elpidio was served orange soda and thereafter left the place 'at a quarter to seven'; that he (Mildenberg) remained until appellant Marie Bonsper closed the place at 'twenty-five minutes to eight o'clock'.

"Thelma Callahan testified that she observed Elpidio enter appellants' premises 'after six o'clock' on December 17, 1960 and that while talking to appellant Marie Bonsper 'he was drinking an orange soda'; that he left the premises 'about seven'; that there were other patrons in the place but she did not pay any attention to them; that she conversed with Elpidio until 'he got with the other boys' but observed him at all times; that she is a regular patron at appellants' premises, living across the street from the premises; that she sits at her window all day and night and 'can tell you everything that goes on in Columbia Street'.

"Elpidio, recalled as a witness by respondent, denied that he threatened to make trouble for appellant Marie Bonsper if she pressed charges against him in the criminal court for an alleged breaking and entering of the licensed premises and he further testified while in the officer's car enroute to police headquarters, appellant Marie Bonsper told him to deny that he had purchased or had been drinking liquor in appellants' premises.

"Appellant Marie Bonsper was also recalled as a witness and when asked by appellants' attorney whether, on the night in question, she was in any automobile with Elpidio said, 'I think it was on a Sunday night time, when the detective picked me up and I saw him at police headquarters.'

"At the hearing of the appeal when appellant Marie Bonsper was

again questioned concerning whether or not she rode in a car with Elpidio, she said, 'He could have been; I really don't remember.'

"Appellants produced seven character witnesses (five of whom, according to the record, serve appellants in a business capacity) and all were in agreement that appellant Marie Bonsper bears a good reputation in the neighborhood where the licensed premises are located.

"The testimony of the minor is clear that while in appellants' premises on the date in question, he purchased and consumed alcoholic beverages. He further testified that as he and appellant Marie Bonsper rode in the car with the detective, she suggested to him that he not disclose that he had been served alcoholic beverages on the licensed premises. At the instant hearing when appellant Marie Bonsper was questioned whether she had ridden in an automobile with Elpidio at any time, she first answered that she did not remember and then when asked whether she wasn't sure he was in the car, appellant Marie Bonsper then said, 'He could have been; I didn't really remember.' In other respects appellant Marie Bonsper's testimony was evasive and did not ring true. Moreover, the testimony of witnesses Callahan and Mildenberg was unimpressive with respect to the events which they described as allegedly taking place on the evening in question insofar as the minor was concerned. It has been the policy of this Division to scrutinize carefully the uncorroborated testimony of a minor wherein he alleges that he drank alcoholic beverages at licensed premises. Testimony on behalf of the licensee in denial thereof is carefully considered. Although the character witnesses presented by appellants were respectable persons, none of them was in appellants' premises on the occasion when the violation was alleged to have been committed.

"The testimony of appellant Marie Bonsper, Mildenberg and Callahan, as well as Elpidio, the minor, is in agreement that Elpidio was in the licensed premises at some time during the evening in question. The matter to be determined is whether, while in the premises, Elpidio drank orange soda or alcoholic beverages. I am satisfied after considering the testimony, that Elpidio was served and drank whiskey and beer on several occasions on December 17, 1960. Thus, I believe his testimony and do not believe the testimony of the others who allege they were in defendants' premises at the time.

"Under the circumstances, the appellants have failed to sustain the burden of establishing that the action of respondent was erroneous. Rule 6 of State Regulation No. 15. It is recommended, therefore, that appellants be found guilty of the charge and that an order be entered affirming the action of respondent, vacating the order dated May 19, 1961, and fixing the effective dates for the fifteen-day suspension heretofore imposed by respondent."

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

Having carefully considered the record herein, including the transcript of proceedings before the respondent Board, the testimony taken at the hearing of the appeal herein, the exceptions of appellants' attorney and written argument thereto, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 2nd day of November 1961,

ORDERED that the action of respondent be and the same is hereby affirmed, and that the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that the fifteen-day suspension heretofore imposed by respondent, and stayed during the pendency of this appeal, be restored and reinstated against the License C-481 held by Marie R. and Paul E. Bonsper, t/a Bonsper's Bar, for premises 90 Green Street, Newark, to commence at 2:00 a.m., Monday, November 13, 1961 and to terminate at 2:00 a.m., Tuesday, November 28, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - GLASS BOWL, INC. v. GLASSBORO.

GLASS BOWL, INC., A CORPORATION)
OF THE STATE OF NEW JERSEY,)
t/a GLASS BOWL,)

Appellant,)

v.)

STIPULATION
OF DISMISSAL

BOROUGH COUNCIL OF THE BOROUGH)
OF GLASSBORO, IN THE COUNTY OF)
GLOUCESTER AND STATE OF NEW)
JERSEY,)

Respondents,)

This matter coming before the Division of Alcoholic Beverage Control of the State of New Jersey, Alvin E. Granite, Esq. appearing for Appellant, Glass Bowl, Inc. and Alfred T. Sanderson, Esq. appearing for respondents, Borough Council of the Borough of Glassboro,

It is hereby ORDERED on this 2nd day of November, 1961, that the appeal filed by Glass Bowl, Inc, is hereby dismissed without prejudice.

WILLIAM HOWE DAVIS
DIRECTOR

(Sd) William Howe Davis.

We consent to the form
and content of the above
Stipulation.

(Sd) Alvin E. Granite
Alvin E. Granite, Attorney
for Appellant

(Sd) Alfred T. Sanderson
Alfred T. Sanderson, Attorney
for Respondents.

3. DISCIPLINARY PROCEEDINGS - PERMITTING CONSUMPTION OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - HINDERING INVESTIGATION - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

STEPHANIE CULLEN)
 t/a CULLEN'S TAVERN)
 421 Bayway)
 Elizabeth, New Jersey)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-224, issued by the City Council of the City of Elizabeth.)

 Defendant-licensee, Pro se.
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On Sunday, September 17, 1961, between 3:00 a.m. and 3:28 a.m., you allowed, permitted and suffered the consumption of alcoholic beverages upon your licensed premises; in violation of Section 8 of an Ordinance adopted by the City Council of the City of Elizabeth on March 5, 1952, as amended December 5, 1952.
- "2. On Sunday, September 17, 1961, between 3:23 a.m. and 4:10 a.m., while Investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey were conducting an investigation, inspection and examination at your licensed premises, you failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation, inspection and examination; in violation of R.S. 33:1-35."

At 3 a.m. on Sunday, September 17, 1961, two ABC agents observed three persons enter the front door of defendant's licensed premises. At 3:15 a.m. the agents approached the front entrance of the premises and, looking inside the premises through a small glass in the door, noticed that there was a light from the juke box and a light behind the bar at which some of the patrons were consuming drinks. At 3:18 a.m. a male patron left the premises and was followed shortly thereafter by another male patron. The agents, who had temporarily left the area of the doorway when they saw two male patrons leaving, returned to the doorway of the premises and, again looking therein, they saw patrons seated at the bar consuming drinks. At 3:23 a.m. the agents knocked on the door which was locked at the time and, in response thereto, a patron came to the window, looked out and, when the agents asked to be admitted, he returned to the far end of the bar. Seconds thereafter the defendant looked out and, although the agents identified themselves and requested admission to the premises, she informed them that the tavern was closed and that the persons inside thereof were leaving. Defendant walked to the juke box and extinguished the light, which left the barroom so dark it was impossible to observe any further activity therein. Although the agents repeatedly identified themselves, the defendant again stated that the place was closed and that she could not let the agents enter.

At 3:28 a.m. defendant unlocked the door and, when the agents entered, they requested the patrons to identify themselves, but defendant directed them not to comply with the agents' request. One of the agents called police headquarters and, minutes later, two policemen entered the premises and, at the officers' request, the ten patrons identified themselves.

I have considered defendant's letter containing alleged mitigating circumstances for the violations committed herein, wherein she alleges that no alcoholic beverages were served after 3 a.m. Regardless, the local ordinance also provides that there shall be no consumption of alcoholic beverages on the licensed premises after 3 a.m. Thus, I find nothing which would warrant less than the minimum penalty for the kind of violations in question.

Our records disclose that effective August 1, 1960, when defendant and Harry J. Cullen, as partners, were holders of the license, it was suspended by the local issuing authority for ten days for an "hours" violation. I shall suspend defendant's license for twenty-five days for the violations herein (Re Gambatese Cocktail Lounge & Restaurant, Inc., Bulletin 1282, Item 5), and an additional fifteen days for the similar "hours" violation occurring during the past five years, making a total suspension of forty days. Five days will be remitted for the plea herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 2nd day of November 1961,

ORDERED that Plenary Retail Consumption License C-224, issued by the City Council of the City of Elizabeth to Stephanie Cullen, t/a Cullen's Tavern, for premises 421 Bayway, Elizabeth, be and the same is hereby suspended for thirty-five (35) days, commencing at 2 a.m. Monday, November 13, 1961, and terminating at 2 a.m. Monday, December 18, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING SUSPENSION PREVIOUSLY IMPOSED.

In the Matter of Disciplinary Proceedings against)	
)	
STEPHANIE CULLEN)	ORDER
t/a Cullen's Tavern)	
421 Bayway)	
Elizabeth, N. J.)	
Holder of Plenary Retail Consumption License C-224, issued by the City Council of the City of Elizabeth.)	
)	

Defendant-licensee, Pro se
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

An order having been entered on November 2, 1961, suspending defendant's license for thirty-five days, effective at 2 a.m. Monday, November 13, 1961; and

Application having been made to me by defendant for postponement of said suspension until January 15, 1962, and it appearing that the deferment of the suspension for such a lengthy period would be

unreasonable but that sufficient reason appears for the deferment of said penalty until January 8, 1962,

It is, on this 10th day of November 1961,

ORDERED that the suspension of thirty-five days, instead of commencing at 2 a.m. Monday, November 13, 1961, shall, in lieu thereof, commence at 2 a.m. Monday, January 8, 1962, and terminate at 2 a.m. Monday, February 12, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

TRIPLE T, INC.)
t/a KIT-KAT BAR)
135 Hamilton Avenue)
Seaside Heights, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption license C-9, issued by the Mayor and Borough Council of the Borough of Seaside Heights.)

Novins, Novins & O'Connor, Esqs., by Robert J. Novins, 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 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.

On August 14, 1961, an ABC agent tested defendant's open stock of assorted brands of liquor and seized a number of bottles of whiskey for further analysis by the Division's chemist. The contents of nine of these bottles, when analyzed by the chemist, disclosed substantial variations in solids, acids and color when compared with samples of the genuine product of the respective brands.

In alleged mitigation, the officers of defendant corporate-licensee deny knowledge of the violation and contend that temporary help, employed during the summer season, in all probability were responsible therefor. I find no merit to defendant's contention. Licensees are held strictly accountable for the acts of their employees in and upon licensed premises. Rule 33 of State Regulation No. 20.

Defendant has no prior adjudicated record. The minimum penalty imposed in "refill" cases involving nine bottles is a suspension of the license for thirty-five days (Re The Lounge, Inc., Bulletin 1293, Item 6). I shall suspend defendant's license for thirty-five days and remit five days for the plea entered herein, leaving a net suspension of thirty days.

However, since only limited operation is being conducted, no effective suspension can be imposed at this time. Therefore, the suspension will be held in abeyance.

Accordingly, it is, on this 2nd day of November 1961,

ORDERED that defendant's license C-9, held by Triple T, Inc., t/a Kit-Kat Bar, for premises 135 Hamilton Avenue, Seaside Heights, or any transfer or renewal thereof, be suspended for thirty (30) days, the effective dates to be fixed by subsequent order.

WILLIAM HOWE DAVIS
DIRECTOR

- 6. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - CONTRACEPTIVES - CHARGE ALLEGING EMPLOYMENT OF UNQUALIFIED PERSONS (NON-RESIDENTS) DISMISSED - LICENSE SUSPENDED FOR 25 DAYS - PREMISES OPERATING ON LIMITED BASIS - EFFECTIVE DATES TO BE FIXED BY FURTHER ORDER.

In the Matter of Disciplinary Proceedings against)

RICHARD K. McCLAIN AND RUTH M. McCANN)
t/a BAY SHORES CAFE)
998 Bay Avenue)
Somers Point, N. J.)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-13, issued by the Common Council of the City of Somers Point.)

Thomas W. Rauffenbart, 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:

"The following charges were preferred against the defendant-licensees:

- '1. On June 30, 1961, 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., Carol C. ---, age 19 and Ann Marie ---, age 20, 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.
- '2. On June 30, 1961, you sold, distributed and possessed and allowed, permitted and suffered the sale and distribution and possessed for the purpose of sale or distribution prophylactics against venereal disease and contraceptives and contraceptive devices, in and upon your licensed premises; in violation of Rule 9 of State Regulation No. 20.
- '3. On June 30, 1961 and prior thereto, you employed and allowed, permitted and suffered the employment in and upon your licensed premises of persons not bona fide residents of the State of New Jersey, contrary to and in violation of Rule 4 of State Regulation No. 13.'

"When the matter came on for hearing, defendants, by their attorney, entered pleas of not guilty to Charges 1 and 3, and a plea of non vult to Charge 2.

"To substantiate Charges 1 and 3, the Division produced Ann Marie ---, one of the alleged minors and ABC agents S, B and D, who participated in the investigation of defendants' licensed business.

"Briefly stated, the testimony of Ann Marie shows that she was born on July 4, 1940; that at about 10:30 p.m., June 30, 1961, she and an adult female were escorted to defendants' licensed premises by an adult male; that after their escort purchased tickets, they entered the cafe and took seats at one of the bars; that her escort ordered from and was served two rounds of alcoholic beverages by the bartender, later identified as Paul Dowr; that after she had consumed her second round of bottled beer, an ABC agent made his identity known and interviewed her and that no one employed on the licensed premises inquired as to her age or required any written representation thereof.

"Agent S testified in substance that he and Agents B and D entered defendants' licensed premises at approximately 9:50 p.m. Friday, June 30, 1961 and took positions at one of the rear bars; that two bands alternately entertained the patrons; that the patronage increased from 60 to approximately 250 within an hour; that he and the other agents walked about the premises and he observed at one bar Ann Marie, consuming beer served to her by Paul Dowr; that he identified himself to Carol, the other alleged minor named in the charge, and seized the remaining portion of a mixed drink served to her by the same bartender, and that the other agents identified themselves to Ann Marie; that thereafter, he identified himself to the manager and to Dowr and informed them of the alleged violations, and that Dowr admitted serving both girls. Agent S further testified that he obtained from the manager the names and addresses of the members of the bands and noting that all of them appeared to be non-residents, he later ascertained from the Division's records that none of them held an employment permit.

"It was stipulated that if the other two agents were called, their testimony would corroborate that of Agent S.

"Richard McClain, one of the licensees, testified that on the date alleged, he arrived on the licensed premises about thirty minutes after the agents had left; that it was he who hired the two bands, each of which consists of five men who reside in New Jersey; that one band, known as 'The Concords', had been entertaining on the premises for eight days, including Friday, June 30, 1961, and that the other band, 'The Carrols', had, on that date, commenced their engagement. He testified further that he employs two municipal police officers seven nights a week, to stand at the door to prevent minors from entering the premises; that after learning what had occurred on the date alleged, he dismissed those officers and hired other police officers and that the establishment is normally operated from Palm Sunday to the first of October.

"It was stipulated that an affidavit attesting to the fact that the members of the bands resided in New Jersey would be submitted and made part of the record herein.

"Considering the evidence adduced herein, I find with respect to Charge 1, that defendants sold, served and delivered alcoholic beverages to Ann Marie, a minor, and permitted her to consume such beverages in and upon their licensed premises. Insofar as Carol, a non-resident is concerned, she failed to appear at the hearing and no concrete proof was presented which might properly establish her age. See State v. Huggins, 83 N.J.L. 43; State v. Girone, 91 N.J.L. 498; State v. Koettgen, 89 N.J.L. 678; Hancock v. Catholic, etc., 69 N.J.L. 308, and State v. Andoloro, 108 N.J.L. 47. I conclude therefore that the Division has established the truth of Charge 1 insofar as it pertains to the minor Ann Marie, by a preponderance of the evidence and recommend that defendants be found

guilty of Charge 1 as it pertains to Ann Marie.

"With respect to Charge 2 to which the confessional plea was entered, it appears from the agents' reports that Agent S purchased, for evidential purposes, a pack of contraceptives from Roger Glover, a porter, and that during their subsequent investigation the agents found three more packs of prophylactics on the premises.

"With respect to Charge 3, the evidence shows that the members of one band worked for eight days on the licensed premises and that the members of the other band worked one day. While there is conflicting evidence respecting the residences of the musicians, that question has now been resolved by an affidavit submitted by defendants which shows that all of the musicians resided in New Jersey on the date alleged. I conclude therefore that the Division has failed to establish the truth of Charge 3 and recommend that defendants be found not guilty of Charge 3.

"Defendants have a prior adjudicated record. Effective August 26, 1959, their license was suspended for five days by the local issuing authority for sales to minors. On appeal, that authority's action was affirmed and the suspension was re-imposed and made effective May 2, 1960. Bulletin 1319, Item 5 and Bulletin 1340, Item 4. When the license was held by Richard K. McClain, individually, it was suspended for three days by the local issuing authority, effective June 10, 1947 for mislabeled beer taps, and effective June 14, 1949 it was again suspended for fifteen days by the same authority for sales to minors, and effective September 17, 1951, it was suspended by this Division for thirty-five days for sales to minors.

"The 1947 and 1949 violations should not be considered in fixing the penalty herein, since they occurred more than ten years ago. The minimum penalty imposed for the sale of alcoholic beverages to a 20-year-old minor is ten days. Re Passner, Bulletin 1379, Item 8. However, since a prior similar violation occurred within a five-year period, the penalty should be doubled and an additional five days imposed for the similar violation which occurred within a ten-year period. In view of the fact that the minor in question lacked only a few days of being twenty-one years of age, I recommend that the ten-day penalty be reduced to five days and, in view of the prior similar violations, that the total suspension for the violation set forth in Charge 1 be fifteen days. I further recommend that a ten-day suspension be imposed for the violation set forth in Charge 2 (Re Roignant, Bulletin 1278, Item 1), and hence, that an order be entered suspending defendants' license for twenty-five days on both charges."

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

Having carefully considered the evidence herein, the oral argument made by defendants' attorney at the hearing and the affidavits subsequently submitted, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein. Hence I find defendants guilty as to that portion of Charge 1 which pertains to the minor, Ann Marie, and not guilty as to Charge 3. I shall accept the recommendation that defendants' license be suspended for twenty-five days on Charge 1, as so limited, and on Charge 2.

Investigation discloses that the licensed premises are now closed, or at least operating only on a very limited basis. Hence no effective suspension can be imposed at the present time.

Accordingly, it is, on this 8th day of November 1961,

ORDERED that Plenary Retail Consumption License C-13, issued by the Common Council of the City of Somers Point to Richard K. McClain and Ruth M. McCann, t/a Bay Shores Cafe, for premises 998 Bay Avenue, Somers Point, be suspended for twenty-five (25) days, the effective dates to be fixed by subsequent order after proof has been presented that operation under said license has been resumed for the 1962 season.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JACK CICARDO AND JULIE CICARDO)
t/a FLICK'S BAR & GRILL)
9025-9027 River Road)
North Bergen, N. J.)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-48, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen.)

Defendant-licensees, by Jack Cicardo, a Partner.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The following charges were preferred against the defendants:

- "1. On September 28 and October 3, 1961, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets in a lottery commonly known as the 'numbers game'; in violation of Rule 7 of State Regulation No. 20.
- "2. On September 28 and October 3, 1961, 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 and you possessed, had custody of and allowed, permitted and suffered such tickets and participation rights in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

Defendants pleaded non vult to Charge 1 and Guilty to Charge 2.

On September 28, 1961, at 11:20 a.m., three ABC agents entered defendants' licensed premises and remained there until 2:45 p.m. At various times during this visit they observed the defendants and a waitress employed by defendants accept numbers bets from several patrons and the slips of paper with the bets written thereon were deposited by the defendants and the waitress in a container located on the back-bar.

At 2:30 p.m. an agent attempted to place a numbers bet with Jack Cicardo (hereinafter Jack), one of the defendants, but the latter refused to accept it and gave as the reason that a person had previously

collected the slips containing the bets taken that day.

On October 3, 1961, at 12:45 p.m., the same three agents entered the premises and each had in his possession a dollar-bill, the serial numbers of which had previously been recorded. On different occasions the agents saw two male patrons walk to an opening in the wall which separated the barroom and the kitchen and hand Jack a slip of paper and a sum of money. Jack would then leave the kitchen, go behind the bar and place the slips of paper in the container aforementioned.

The agents placed numbers bets with Jack who picked up the container containing the slips and a cigar-box and went into a side-room. By pre-arrangement, another agent and two municipal police detectives entered the premises and the agent and one detective went to the side-room. Shortly thereafter Jack, the detective, and the agent who was carrying the container and a cigar box, came from the side-room. Jack refused to give a written statement but, when asked at Police Headquarters how long he had accepted numbers bets at the licensed premises, Jack answered "a couple of months."

Defendants have no previous adjudicated record. I shall suspend defendants' license for twenty-five days, the minimum suspension imposed in commercialized gambling cases when a licensee or employee is involved. Re Johnson, Bulletin 1407, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 9th day of November 1961,

ORDERED that Plenary Retail Consumption License C-48, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen to Jack Cicardo and Julie Cicardo, t/a Flick's Bar & Grill, for premises 9025-9027 River Road, North Bergen, be and the same is hereby suspended for twenty (20) days, commencing at 3 a.m. Tuesday, November 21, 1961, and terminating at 3 a.m. Monday, December 11, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

8.

ACTIVITY REPORT FOR NOVEMBER 1961

ARRESTS:		
Total number of persons arrested - - - - -		21
Licensees and employees - - - - -	9	
Bootleggers - - - - -	12	
SEIZURES:		
Motor vehicles - cars - - - - -		2
Still - 50 gallons or under - - - - -		3
Mash - gallons - - - - -		1,630.00
Distilled alcoholic beverages - gallons - - - - -		32.92
Wine - gallons - - - - -		.91
Brewed Malt alcoholic beverages - gallons - - - - -		22.50
RETAIL LICENSEES:		
Premises inspected - - - - -		506
Premises where alcoholic beverages were gauged - - - - -		535
Bottles gauged - - - - -		8,952
Premises where violations were found - - - - -		59
Violations found - - - - -		63
Reg. #38 sign not posted - - - - -	29	Other mercantile business - - - - - 2
Unqualified employees - - - - -	11	Disposal permit necessary - - - - - 2
Application copy not available - - - - -	11	Other violations - - - - - 4
Prohibited signs - - - - -	4	
STATE LICENSES:		
Premises inspected - - - - -		20
License applications investigated - - - - -		3
COMPLAINTS:		
Complaints assigned for investigation - - - - -		402
Investigations completed - - - - -		393
Investigations pending - - - - -		148
LABORATORY:		
Analyses made - - - - -		230
Refills from licensed premises - bottles - - - - -		51
Bottles from unlicensed premises - - - - -		19
IDENTIFICATION:		
Criminal fingerprint identifications made - - - - -		9
Persons fingerprinted for non-criminal purposes - - - - -		237
Identification contacts made with other enforcement agencies - - - - -		171
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities - - - - -		10
Violations involved - - - - -		11
Sale During prohibited hours - - - - -	7	Possessing chilled beer (DL license) - 1
Sale to minors - - - - -	2	Employing female bartender - - - - - 1
Cases instituted at Division - - - - -		26
Violations involved - - - - -		38
Possessing liquor not truly labeled - - - - -	18	Unauthorized transportation - - - - - 1
Hindering investigation - - - - -	3	Permitting bookmaking on premises - - - - - 1
Sale below filed price - - - - -	2	Permitting lottery (numbers) on premises - - - - - 1
Sale during prohibited hours - - - - -	2	Sale on Election Day - - - - - 1
Permitting foul language on premises - - - - -	2	Storage off licensed premises - - - - - 1
Sale to minors - - - - -	2	Permitting immoral activity on prem. - 1
Accepting unlawful inducement from wholesaler - - - - -	1	Conducting business as a nuisance - - 1
		Failure to have copy of license application on premises - - - - - 1
Cases brought by municipalities on own initiative and reported to Division - - - - -		17
Violations involved - - - - -		20
Sale to minors - - - - -	11	Permitting immoral activity on premises - - - - - 1
Conducting business as a nuisance - - - - -	3	Permitting gambling on premises - - - 1
Illegal activity connected with licensed premises - - - - -	1	Serving woman at bar (local reg.) - - 1
Permitting lottery activity (baseball pool) on premises - - - - -	1	Failure to close premises during prohibited hours - - - - - 1
HEARINGS HELD AT DIVISION:		
Total number of hearings held - - - - -		48
Appeals - - - - -	10	Eligibility - - - - - 10
Disciplinary proceedings - - - - -	25	Seizures - - - - - 3
STATE LICENSES AND PERMITS ISSUED:		
Total number issued - - - - -		1,627
Licenses - - - - -	3	Wine permits - - - - - 322
Solicitors' permits - - - - -	49	Miscellaneous permits - - - - - 243
Employment " - - - - -	229	Transit insignia - - - - - 319
Disposal " - - - - -	81	Transit certificates - - - - - 2
Social affair " - - - - -	379	
OFFICE OF AMUSEMENT GAMES CONTROL:		
Licenses issued - - - - -	1	
Premises inspected - - - - -	1	
Enforcement files established - - - - -	35	
Hearings held at Division - - - - -	1	

WILLIAM HOWE DAVIS
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

Dated: December 6, 1961

9. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LETT'S TAVERN, INC.)
t/a LETTS TAVERN INC.)
442 Bordentown Avenue)
South Amboy, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-35, issued by the Common Council of the City of South Amboy.)

John E. Mullane, Esq., Attorney for Defendant-licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendant pleaded guilty to the following charge:

"On Saturday night October 21, 1961, 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., Frank ---, age 18 and Edward ---, 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."

On Saturday, October 21, 1961, at 11:15 p.m., ABC agents entered the defendant's licensed premises and observed Edward --- (age 19) and Frank --- (age 18) at a pool table engaged in a game of billiards, and each had a glass of beer, partly consumed, which was on the bar.

At 11:37 p.m. the agents observed these minors consume the balance of their beer and they then purchased and were each served by Grace Miller (a barmaid) a glass of beer which was paid for by Edward. Shortly thereafter the agents identified themselves, seized the beer and questioned the minors and the barmaid. Mrs. Miller executed a voluntary statement in which she admitted the sale to the two minors and that such sales were made without the statutory inquiry with reference to their ages.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of fifteen days, the minimum penalty imposed for an unaggravated sale of alcoholic beverages to an 18- and 19-year-old minor. Re Holiday Cocktail Lounge, A Corp., Bulletin 1409, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 9th day of November 1961,

ORDERED that Plenary Retail Consumption License C-35, issued by the Common Council of the City of South Amboy to Lett's Tavern Inc., t/a Letts Tavern Inc., for premises 442 Bordentown Avenue, South Amboy, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, November 20, 1961, and terminating at 2 a.m. Thursday, November 30, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

SUNDOWN BAR & GRILL, INC.)
344 Bergen Boulevard)
Palisades Park, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-16, issued by the Mayor and Council of the Borough of Palisades Park.)

Defendant-licensee, by Michael Rich, President David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge 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.

On October 4, 1961, an ABC agent tested defendant's open stock of liquor and seized a 4/5 quart bottle labeled "Smirnoff Vodka, 100 Proof" for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of the seized bottle were very low in proof when compared with the analysis of the contents of a genuine bottle of the same brand.

Defendant has a prior adjudicated record. Effective October 31, 1960, its license was suspended by the Mayor and Council of Palisades Park for ten days for sale to minors. The minimum penalty imposed in cases where one bottle is involved is ten days. Re McCloskey, Bulletin 1418, Item 7. Because of the dissimilar violation which occurred within the past five years, five days will be added, making a total of fifteen days. Re Perry's Bar & Grill (A Corp.), Bulletin 1409, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 30th day of November 1961,

ORDERED that Plenary Retail Consumption License C-16, issued by the Mayor and Council of the Borough of Palisades Park to Sundown Bar & Grill, Inc., for premises 344 Bergen Boulevard, Palisades Park, be and the same is hereby suspended for ten (10) days, commencing at 3 a.m. Monday, December 11, 1961, and terminating at 3 a.m. Thursday, December 21, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

WILLIAM A. SCHABLOWSKY t/a BILL'S TAVERN Route 206 Stanhope, N. J.)

CONCLUSIONS AND ORDER

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

----- Defendant-licensee, Pro se. David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

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

On September 19, 1961, an ABC agent tested defendant's open bottles of alcoholic beverages and seized two bottles for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of the seized bottles, when compared with genuine bottles of the same brands, varied substantially in solids and color.

Defendant has no prior record. I shall suspend defendant's license for fifteen days, the minimum penalty in cases involving two bottles. Re Rost, Bulletin 1420, Item 5. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 22nd day of November 1961,

ORDERED that Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Stanhope to William A. Schablowsky, t/a Bill's Tavern, for premises on Route 206, Stanhope, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, December 4, 1961, and terminating at 2 a.m. Thursday, December 14, 1961.

[Handwritten signature]

William Howe Davis Director