

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

BULLETIN 1362

November 22, 1960

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - MELLOR v. RIDGEFIELD PARK.
2. DISCIPLINARY PROCEEDINGS (Newark) - SALE DURING PERIOD OF SUSPENSION - SALE ON ELECTION DAY - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - HINDERING INVESTIGATION - ACTS OF VIOLENCE ON ABC AGENTS - PRIOR RECORD - LICENSE SUSPENDED FOR 180 DAYS.
3. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
4. DISCIPLINARY PROCEEDINGS (Jersey City) - GAMBLING - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Toms River) - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
6. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1960 TO SEPTEMBER 30, 1960 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19.
7. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - CONDUCTING BUSINESS DURING PROHIBITED HOURS - SALE BEYOND TERMS OF LICENSE - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - CONDUCTING BUSINESS DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (North Wildwood) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA - EFFECTIVE DATES TO BE FIXED BY FURTHER ORDER.
10. DISCIPLINARY PROCEEDINGS (Elizabeth) - CHARGE ALLEGING POSSESSION OF ALCOHOLIC BEVERAGES NOT TRULY LABELED DISMISSED.
11. STATE LICENSES - NEW APPLICATION FILED.

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

BULLETIN 1362

November 22, 1960

1. APPELLATE DECISIONS - MELLOR v. RIDGEFIELD PARK.

William E. Mellor,)
Appellant,) On Appeal
v.)
Board of Commissioners of)
the Village of Ridgefield)
Park,)
Respondent.)

Huckin & Huckin, Esqs., by James L. Avignone, Esq., Attorneys
for Appellant
John F. McCann, Esq., Attorney for Respondent

BY THE DIRECTOR:

This is an appeal from the action of respondent whereby on July 26, 1960, it denied an application to renew for the 1960-61 licensing year a license granted (but not issued) to appellant for premises to be erected on the south side of Route 46, Ridgefield Park. In an appeal taken from the original action granting the license, I affirmed respondent's action and dismissed the appeal. LoBoves v. Ridgefield Park and Mellor, Bulletin 1338, Item 1. The answer filed herein alleges that appellant has not constructed or started to construct the proposed licensed premises.

Prior to the hearing herein a stipulation was filed which recites that the attorneys for the respective parties have stipulated and agreed that the appeal be discontinued. No reason appearing to the contrary,

It is, on this 5th day of October 1960,

ORDERED that the appeal be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALE DURING PERIOD OF SUSPENSION - SALE ON ELECTION DAY - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - HINDERING INVESTIGATION - ACTS OF VIOLENCE ON ABC AGENTS - PRIOR RECORD - LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary Proceedings against)

Augustine DeSimone)
201 Bruce St. & 46 - 14th Ave.,)
Newark 3, New Jersey,)

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-373, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)
-----)

Fox & Schackner, Esqs., by Donal C. Fox, Esq., Attorneys for Defendant-licensee Edward F. Ambrose, Esq., Appearing for 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 Tuesday, January 12, 1960, between 6:30 P.M. and 6:35 P.M. during the suspension of your license by the Municipal Board of Alcoholic Beverage Control of the City of Newark from 7:00 A.M. January 4, 1960 to 7:00 A.M. January 19, 1960, you allowed, permitted and suffered the sale, service and delivery of alcoholic beverages in and upon your licensed premises; in violation of Rule 32 of State Regulation No. 20.
- '2. On Tuesday, January 12, 1960, an election day in the City of Newark, New Jersey for change in form of municipal government, between 6:30 P.M. and 6:35 P.M., while the polls were open for voting at such election, you sold and offered for sale, at retail, and delivered alcoholic beverages to consumers; in violation of Rule 2 of State Regulation No. 20.'

"Defendant pleaded not guilty to the following supplemental charges:

- '3. On Sunday, February 28, 1960 at about 6:15 P.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., two 1-quart bottles of Rheingold beer, at retail, in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38.
- '4. On Sunday, February 28, 1960 between 4:25 P.M. and 6:15 P.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of approximately fifty-eight (58) separate orders of alcoholic beverages, at retail, in their original containers for consumption off your licensed premises, and allowed, permitted and suffered the removal of said alcoholic beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

- '5. On Sunday, February 28, 1960 while Inspector J.M. and Investigator G 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.
- '6. On Sunday, February 28, 1960, you committed and allowed, permitted and suffered acts of violence, viz., assaults and batteries upon the persons of the aforementioned Inspector J.M. and Investigator G during an investigation, inspection and examination then and there being conducted by them in and upon your licensed premises as agents as aforesaid of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of Rule 5 of State Regulation No. 20.'

"As to Charges 1 and 2: Defendant's license was suspended by the Municipal Board of Alcoholic Beverage Control for fifteen days, effective from January 4 to January 19, 1960, after defendant pleaded non vult to a charge of selling during prohibited hours. Moreover, on January 12, 1960, a municipal election was being held in Newark and all licensees in Newark were prohibited from selling alcoholic beverages on that day while the polls were open for voting.

"It appears that defendant hired Dominick Farro (a general contractor) to do certain work on the licensed premises during the period of suspension; that, in order to facilitate this work, defendant's stock of liquor had been moved from the barroom to a rear room; that on January 12 the barroom was being painted; that the painters finished for the day about 5:20 p.m., and shortly thereafter DeSimone (who had been in and out during the day) left for supper and Farro and Salvatore Lasceri (his part-time helper) went to the rear room where they remained for a long period of time.

"On the evening of January 12 ABC agents W.M. and L had been assigned to investigate a specific complaint that defendant was selling during the period of suspension and during prohibited hours on an Election Day. Both agents testified that they arrived in the vicinity of defendant's premises about 6:30 p.m. and parked their car on the 14th Avenue side of the building.

"Agent W.M. testified that he left the car immediately; that, as he was walking from the car to the main entrance to the premises (at the corner of Bruce Street and 14th Avenue), he passed two colored males standing near a side door and heard one say to the other 'You can get it in here;' that, when he reached the main entrance, he found the door locked but observed from the outside that no one was in the barroom and that there were ladders and painting equipment in the barroom; that he returned along 14th Avenue and followed one of the aforesaid males through a side doorway which opens into a hallway and thence through another doorway which opens into the rear room to which defendant's stock of liquor had been removed.

Agent W.M. testified that, when he entered the rear room, he observed three males, identified by him at the hearing as Augustine DeSimone (the licensee), Dominick Farro and Salvatore Lasceri, behind a make-shift bar and observed the male who had entered ahead of him putting a pint bottle in the pocket of his coat. Agent W.M. testified that he then asked Lasceri for a pint of port; that Lasceri answered that they had only apple and cherry; that, when he agreed to take apple, DeSimone reached into a container, took out a pint bottle labeled 'Vincove Apple Wine' and handed it to Lasceri who quoted the

price as sixty-five cents; that he gave Lasceri three quarters and received from him the bottle and ten cents change; that DeSimone, after receiving the three quarters and throwing them in a metal box, came from behind the make-shift bar, told him to watch out and to leave through another side door which leads directly from the rear room to 14th Avenue; that he went directly to the car and showed the bottle to Agent L; that both agents then tried to re-enter the rear room through the doorway by which he left but found that door locked and they then re-entered through the same doorways by which he had originally entered.

"Agents W.M. and L testified that, when they entered the rear room, DeSimone, Farro and Lasceri were behind the make-shift bar; that both agents presented their credentials to the three men and W.M. identified Lasceri as the person who made the sale and DeSimone as the person who assisted in making the sale; that DeSimone and Lasceri denied that they had seen W.M. before and denied making the sale.

"During subsequent conversation DeSimone, in response to a question, denied that the room was part of the licensed premises and the agents, believing that they had found a 'speakeasy' operation, telephoned to the Newark Police Department and, subsequently, a number of police officers came to the rear room of the premises.

"On behalf of defendant, Farro and Lasceri testified that DeSimone left shortly after the painters finished work and that they then went to the rear room; that, prior to the time the agents entered the rear room they had been in said room for nearly an hour figuring on new subflooring and tiling for the tavern; that no one had entered the room during the hour; that, when the agents entered, W.M. pulled a package from his pocket and accused Lasceri of making the sale; that the agents then stated that the place was a 'speakeasy' and telephoned for the police. Farro and Lasceri testified that DeSimone was not in the room from the time he left (at about 5:30 p.m.) until he re-entered with Officer Knapp. Salvatore Lasceri specifically testified that he never sold anybody anything either while alone or with Farro.

"Augustine DeSimone testified that he left the premises about 5:30 p.m. and went to his mother's house, which is on Bruce Street about one-half block from the licensed premises; that his sister told him that 'Slim' had called to say that there was trouble at the tavern (both the sister and 'Slim' so testified); that he went to the tavern and tried to get in a side door which was locked; that Agent L was outside and that, when the police officer arrived, the officer let them in; that, when he entered, the agents were talking about a 'speakeasy.' DeSimone denied that he sold a bottle of Vincove wine to W.M.; denied that he gave Lasceri a bottle to hand to W.M.; denied that he received seventy-five cents, and denied that W.M. accused him of participating in the sale. On cross-examination, he admitted that his stock of liquor on January 12 included pint bottles of Vincove wine.

"On behalf of defendant, Officer Knapp, of the Newark Police Department, testified that, in response to a call, he arrived in the vicinity at 6:50 p.m.; that Agent L and DeSimone were then outside on 14th Avenue; that the agent told him they had called because of a 'speakeasy'; that DeSimone told him he was trying to get in but the door was locked; that someone inside opened the door and that all entered the rear room; that, after they entered, Agent W.M. showed a bag and said 'I just made this here buy.' The officer further testified that he left the premises after it was established that the rear room was part of the licensed premises.

"The pint bottle of 'Vincove Apple Wine', which was identified by W.M. as the bottle he bought, and a certificate of analysis prepared by the Division's chemist disclosing that the bottle contained an alcoholic beverage were then introduced into evidence.

"As to Charges 3 to 6 inclusive: Agents J.M. and G testified that on Sunday, February 28, 1960, they were assigned to make an investigation of premises in Paterson and thereafter to investigate a specific complaint that package goods were being sold on Sundays at defendant's premises; that they completed the Paterson assignment about 3:40 p.m.; that J.M. drove to Newark and that they arrived in the vicinity of defendant's premises about 4:25 p.m. and parked the car on Bruce Street.

"Agent J.M. testified that he entered defendant's premises and sat at the far end of the bar; that there were about fifteen patrons in the premises; that there were three male bartenders, two of whom he identified at the hearing as the licensee and Benjamin Miele and the third of whom wore 'a blue sweater with specks of white through it;' that he later learned that the third bartender was Anthony Baldi; that, between the time he entered and 6:15 p.m., he purchased and drank four bottles of beer; that during that same period he observed fifty-eight patrons purchase bottles or cans of alcoholic beverages for off-premises consumption; that most of these patrons just came in, made a purchase and left; that some patrons carried the containers in bags and some patrons placed pint bottles in their pockets and that the majority of them left by the rear door. Agent J.M. testified that DeSimone was not in the premises at 6 p.m.; that at 6:15 p.m. he ordered from Baldi two quart-bottles of Rheingold beer; that, after the bartender placed the bottles in a paper bag, he left the barroom by a rear door and went to the car, where he showed the bottles to Agent G; that he and G then entered the barroom.

"Agents J.M. and G testified that, when they entered at about 6:20 p.m., Miele was behind the bar but neither Baldi nor DeSimone was there; that they identified themselves to Miele; that J.M. told Miele he had just purchased two quarts of beer and Miele said he would call the owner. Both agents testified that DeSimone came in within a few minutes and that, after they identified themselves to him, the three of them went to a rear room where the licensee said 'Can't we do something;' that, when they told the licensee nothing could be done and asked to see the license application, he said he would get it; that, instead, the licensee picked up the package containing the beer from a cardboard carton where J.M. had placed it, and ran back to the barroom followed by the agents; that, when the licensee reached the barroom, he ran to the bar with the package and called out 'This fellow stole \$5. He's drunk. He's been fooling around with colored girls.' J.M. testified that there were then about twenty colored patrons and seven white patrons in the place and that these remarks incited the patrons; that the licensee grabbed him by one arm and a patron grabbed him by the other arm, pulled him out the side door and pushed him against the side wall, where he was surrounded by other patrons who followed them out of the tavern. G testified that, when J.M. was seized in the tavern, he backed off and drew his revolver; that the patrons dropped back and he put his revolver in its holster; that some patrons then grabbed him and pushed him out the side door; that one patron (Baniels) then came up behind him and lifted him off his feet and that someone removed his revolver from its holster. The agents testified that police officers arrived and quieted the crowd outside; that they, the licensee and the police officers entered the premises where they remained until 7:25 p.m., and that they then went to the 4th Precinct Police Headquarters in their car which was driven by J.M. The revolver taken from G was returned to him at some time during the evening.

"On behalf of defendant, DeSimone testified that he alone was tending bar on the afternoon of February 28 prior to 5:45 p.m. when Miele relieved him; that he served eight to ten drinks of Cutty Sark whiskey and seven or eight bottles of beer to J.M. who entered about 3 p.m. and who was dressed in workmen's clothes; that, after Miele relieved him, he went to his mother's house to eat and was there when one Gatsen telephoned him that there was trouble; that, when he arrived at the 14th Avenue side of the building, the two agents were against the wall surrounded by people; that police officers arrived and that he, the agents and the officers went to a rear room, to which Miele brought the license application; that all then went to 4th Precinct Police Headquarters. He denied that he had sold any alcoholic beverages for off-premises consumption; that the agents had showed him the bottles; that he asked the agents if something could be done; that he 'snatched' any bottles from the agent and that he had called out that J.M. had stolen money, was drunk and trying to make out with women. On cross-examination he admitted that J.M. did not appear to him to be actually or apparently intoxicated.

"Benjamin Miele testified that he relieved DeSimone at 5:45 p.m., at which time DeSimone left the premises, and that he sold one bottle of beer to J.M. at the bar but sold nothing for off-premises consumption. His testimony as to events which thereafter occurred is contradictory and confusing. Thus, for example, he testified that he first saw G when the agent came in with police officers. Thereafter he testified he heard someone say 'he's got a gun' before the two agents entered together with the police officers (defendant's case p. 129). However, the strangest version of all is his testimony that he heard someone say 'he's got a gun' after the agents, the licensee and the police officers had entered and had gone to a rear room (defendant's case p. 129). He denied that J.M. told him he had just bought the beer and stated that, in his opinion, J.M. was not actually or apparently intoxicated. He said that he told Gatsen to 'phone to the licensee. If this occurred when the agents returned with the bottles J.M. purchased, the licensee had enough time to return to the premises to participate in the events which the agents allege preceded their ejection from the premises.

"Three patrons (Albert Baniels, Mr. Serato and Mr. Gamba) testified that they were drinking together at the bar when they heard a woman scream 'he's got a gun;' that Baniels grabbed G who had a gun, took him from the premises and held him against the wall until police arrived; that other patrons took J.M. out and held him against the wall.

"Anthony Baldi testified that he is manager of the business but does not work on Sundays; that he was not at the premises on February 28. A telephone call he made at 1:39 p.m. on that day indicates that he was then at his home in Fords, N. J., but this does not preclude the possibility that he came to the premises later.

"The testimony of the police officers is not helpful because, admittedly, they arrived after the agents were taken from the tavern and pinned against the wall. Sergeant Madaris did testify that G's gun was found diagonally across the street behind a billboard. The testimony of Lieutenant Slezak, who was at 4th Precinct Headquarters, that he suggested J.M. have some rest before going on another assignment is understandable considering the experience J.M. had at defendant's premises.

"This is a distasteful case to decide because it is impossible to reconcile the agents' testimony with the testimony of defendant and two of his witnesses (Miele and Lasceri). Witnesses may be mistaken as to whether a make-shift bar was set up on January 12 (it could easily have been removed before a photo was

taken); I may have been mistaken when he said that he was alone when Officer Knapp arrived because he also testified that DeSimone was in and out while he was waiting for the police, and J.M. may have been mistaken in stating that Baldi was the bartender who sold him the two bottles. However, it is necessary to find either that four agents deliberately gave false testimony that DeSimone and Lasceri participated in the sale on January 12 and that DeSimone incited the patrons to eject the agents on February 28, or that DeSimone and Lasceri deliberately gave false testimony as to the sale on January 12 and DeSimone and Miele deliberately gave false testimony as to the events which took place on February 28. I believe that J.M., who is an experienced Inspector, was not intoxicated and his testimony was not shaken. However, even if his testimony be disregarded, there is still the testimony of G, who had nothing to drink that day. DeSimone admitted that ninety-nine per cent. of his patrons are colored. The remarks he is alleged to have made on February 28 would incite his patrons to violence.

"After considering the evidence, exhibits and brief, I conclude that the Division has established defendant's guilt as to all charges by a fair preponderance of the believable evidence. It is recommended, therefore, that defendant be found guilty as charged. Defendant has a prior record. Effective July 15, 1957, his license was suspended by the Director for five days for accepting orders at a place other than the licensed premises. Bulletin 1184, Item 5. As indicated herein, his license was suspended by the local issuing authority for fifteen days, effective January 4, 1960, for selling during prohibited hours. Considering the past record, the seriousness of the charges herein and the false testimony of defendant, the only proper penalty is revocation. It is recommended, therefore, that an order be entered herein revoking defendant's license."

Written exceptions to the Hearer's Report and written argument thereto were filed with me by the attorneys for the defendant, pursuant to Rule 6 of State Regulation No. 16. The exceptions and argument consist of a factual analysis of the evidence in support of the defendant's contention that the testimony of the four agents was fabricated.

The essence of this case involves a determination as to the credibility of the witnesses presented by both parties. In this connection, I have carefully considered the entire record herein, including the transcript and exhibits, the brief submitted by the licensee, the Hearer's Report, the exceptions thereto and the written argument in support of said exceptions, and as a result I completely concur with the findings and conclusions of the Hearer with respect to Charges 1, 2, 3, 4 and 5. However, with respect to Charge 6, I am in doubt as to whether the defendant-licensee in fact physically assaulted the two agents in question or incited a riot which resulted in the assault in question, although I believe that defendant was responsible for the loss of the evidential bottles of beer. Admittedly, much confusion and excitement attended the sequence of events occurring shortly after the agents entered the licensed premises at about 6:20 p.m. on February 28, 1960. I will, therefore, give the licensee the benefit of the doubt and find that his guilt on this charge has not been established by a fair preponderance of the believable evidence in the record.

The difficult question of penalty remains. The Hearer's recommendation of revocation of defendant's license conforms to the Hearer's determination of defendant's guilt on all the charges, including the one alleging personal assault upon the agents. In view of my finding that the evidence fails to sustain the licensee's guilt on Charge 6, and giving careful consideration to all the circumstances involved herein, including the defendant's previous record and his unwarranted behavior in the conduct of his licensed business, I feel that a suspension of his license for one hundred

eighty days is a proper penalty to be imposed.

Accordingly, it is, on this 3rd day of October 1960,

ORDERED that plenary retail consumption license C-373, for the 1960-61 licensing year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Augustine DeSimone, for premises 201 Bruce St. & 46- 14th Ave., Newark, be and the same is hereby suspended for one hundred eighty (180) days, commencing at 2 a.m. Monday, October 10, 1960, and terminating at 2 a.m. Saturday, April 8, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAY, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Daniel McHenry & Clara McHenry, Jr.
t/a McHenry's Tavern
178 Griffith Street
Jersey City, New Jersey

CONCLUSIONS

AND

Holders of Plenary Retail Consumption License C-356, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

ORDER

James F. Ryan, Esq., Attorney for Defendant-licensees.
Dora P. Rothschild, Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they sold during prohibited hours alcoholic beverages in their original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

On Sunday, September 11, 1960, at about 3:55 p.m., an ABC agent who was in defendants' licensed premises purchased two one-quart bottles of Piel's beer from the bartender, Thomas McHenry, brother of Daniel McHenry, one of defendant-licensees. The agent left the premises with the alcoholic beverages, but immediately re-entered with another agent and both identified themselves to the bartender who had made the sale.

Defendants have no prior adjudicated record. I shall suspend defendants' license for a minimum period of fifteen days. Re Janulis, Bulletin 1346, Item 10. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 3rd day of October 1960,

ORDERED that Plenary Retail Consumption License C-356, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Daniel McHenry & Clara McHenry, Jr., t/a McHenry's Tavern, for premises 178 Griffith Street, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, October 10, 1960 and terminating at 2:00 a.m., Thursday, October 20, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Wilfred Keenan)
t/a Lou's Tavern)
7 Bleeker Street)
Jersey City, N. J.,)

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption License C-514, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

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 charge:

"On Friday night August 19 and early Saturday morning August 20, 1960, you allowed, permitted and suffered gambling, viz., the playing of a card game for stakes of money, in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20."

At 11:40 p.m. Friday, August 19, 1960, two ABC agents entered defendant's licensed premises and remained therein until about 12:50 a.m. the following morning. During their stay they watch six men who were seated at the bar play fifteen games of stud poker for money stakes as high as \$15. The bartender showed an interest in the games and from time to time served the players alcoholic beverages. The agents eventually identified themselves and seized the playing cards for evidential purposes. The bartender refused to give a written statement saying "You saw the game and I knew what they were playing."

Defendant has no prior adjudicated record. I shall suspend his license for ten days, the minimum penalty imposed for permitting on licensed premises card games for substantial sums. Re Hanna, Bulletin 1220, Item 9. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 3rd day of October 1960,

ORDERED that plenary retail consumption license C-514, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Wilfred Keenan, t/a Lou's Tavern, for premises-7 Bleeker Street, Jersey City, be and the same is hereby suspended for five (5) days, commencing at 2 a.m. Monday, October 10, 1960, and terminating at 2 a.m. Saturday, October 15, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

TOMS RIVER LIQUORS, INC.)
43 Main Street)
Dover Township)
PO Toms River, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Township Committee of Dover Township.)

Samuel Moskowitz, 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 sold alcoholic beverages at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulation No. 30.

On Thursday, August 18, 1960 an ABC agent entered defendant's licensed premises and inquired of Irving Golob, the manager, the price of a case of Seagram's Seven Crown Whiskey in fifths. Golob quoted him \$54.60 and when the agent said that he could do better elsewhere, Golob told him to drop in when he was ready and he would take care of him. The following day the agent returned and ordered a case of the aforesaid name-brand whiskey from Martin Dinerstein, president of the corporate-licensee. When Golob acknowledged that the agent had visited the premises the preceding day, Dinerstein asked Golob to figure out the price of the whiskey. The price he figured was \$54.61, the correct resale price then in effect. Dinerstein then instructed Golob to sell the case of whiskey for \$53 and when Golob went to the rear of the premises to get the whiskey, another ABC agent entered the premises on signal and observed the first agent hand \$53 to Dinerstein, who put the money in his pocket. Golob carried the case of whiskey to the agent's car and handed it to him. The agent immediately reentered the premises and both agents identified themselves. Dinerstein then admitted the unlawful sale.

Defendant has no prior adjudicated record. The minimum penalty for a violation such as charged herein is a suspension of the license for a period of ten days. Re Kowal, Bulletin 1330, Item 10. I shall suspend defendant's license for ten days, and remit five days for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 29th day of September 1960,

ORDERED that Plenary Retail Distribution License D-1, issued by the Township Committee of Dover Township to Toms River Liquors, Inc., for premises 43 Main Street, Dover Township, be and the same is hereby suspended for (5) days, commencing at 9:00 a.m., Monday, October 10, 1960, and terminating at 9:00 a.m., Saturday, October 15, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1960 TO SEPTEMBER 30, 1960 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Number Surrendered Revoked Expired	Number Licenses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	486	\$ 208,160.00	72	\$ 27,625.00	28	\$ 2,595.00						586	\$ 238,380.00
Bergen	812	308,090.00	301	88,457.00	120	11,160.00	52	\$ 2,451.50	5	\$ 1,398.75		1290	411,557.25
Burlington	186	82,540.00	40	12,520.00	47	6,650.00	1	50.00				274	101,760.00
Camden	453	221,970.00	82	35,165.00	78	7,670.00			1	375.00		614	265,180.00
Cape May	137	77,800.00	12	4,500.00	18	2,150.00						167	84,450.00
Cumberland	79	40,250.00	15	4,200.00	30	4,060.00						124	48,510.00
Essex	1339	758,710.00	350	210,212.00	105	14,425.00	28	1,400.00	1	750.00		1823	985,497.00
Gloucester	108	38,650.00	15	3,820.00	23	2,035.00						146	44,505.00
Hudson	1522	689,335.73	298	122,400.00	81	9,772.05	63	2,700.00				1964	824,207.78
Hunterdon	79	28,100.00	11	3,810.00	10	1,100.00						100	33,010.00
Mercer	421	261,210.00	51	22,020.00	56	8,100.00			1	123.93		529	291,453.93
Middlesex	631	312,605.00	80	26,045.00	103	9,110.00	4	200.00				818	347,960.00
Monmouth	553	288,655.00	122	43,020.00	48	5,391.25	10	435.00	26	11,906.13		759	349,407.38
Morris	355	137,215.00	102	34,935.68	58	5,262.50	16	800.00	4	1,200.00		535	179,413.18
Ocean	188	104,666.77	47	19,680.00	31	3,600.00						266	127,946.77
Passaic	862	354,615.00	167	51,430.00	41	5,115.00	6	300.00				1076	411,460.00
Salem	50	19,400.00	8	1,600.00	20	1,675.00						78	22,675.00
Somerset	188	85,565.00	41	12,695.00	30	3,500.00						259	101,760.00
Sussex	165	45,205.00	21	4,185.00	10	595.00	1	50.00	1	225.00		198	50,260.00
Union	550	312,340.00	144	67,320.00	74	8,375.00	29	1,425.00				797	389,460.00
Warren	148	44,160.00	21	5,270.00	27	3,025.00			2	337.74		198	52,792.74
Total	9312	\$4,419,242.50	2000	\$800,909.68	1038	\$115,365.80	210	\$9,811.50	41	\$16,316.55		12601	\$5,361,646.03

William Howe Davis
Director

October 6, 1960

7. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - CONDUCTING BUSINESS DURING PROHIBITED HOURS - SALE BEYOND TERMS OF LICENSE - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Old Homestead Tavern, Inc. t/a Old Homestead Tavern 76 Kearny Avenue Jersey City, New Jersey,)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-168, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City)

ORDER

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On Sunday, August 7, 1960, at about 12:15 P.M., you conducted your licensed business; in violation of Section 4 of an ordinance adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950.
"2. On Sunday, August 7, 1960, at about 12:15 P.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., a pint bottle of Chateau Martin Port Wine, at retail in its original container for consumption off your licensed premises and you allowed, permitted and suffered the removal of such alcoholic beverage from your licensed premises; in violation of Rule 1 of State Regulation No. 38.
"3. On Sunday, August 7, 1960, at about 12:15 P.M., you sold alcoholic beverages not pursuant to and within the terms of your license as defined by R.S. 33:1-12(1) and limited by R.S. 33:1-26, in that you sold alcoholic beverages at premises other than your licensed premises, namely, the sidewalk and hallway adjacent to your licensed premises; in violation of R.S. 33:1-2."

At 12:05 p.m. Sunday, August 7, 1960, two ABC agents visited the vicinity of defendant's licensed premises and from a vantage point observed five men waiting outside the tavern. One of the agents joined the group and at 12:10 p.m. observed Robert Moore (president of the corporate licensee) emerge from the premises and hand what appeared to be six cans of beer to one man and a pint bottle of wine to another. The men departed and, when each of two others asked Moore for a bottle of wine, the agent did likewise and gave a dollar-bill to Moore who entered the tavern. At 12:15 p.m. Moore returned with three sealed bottles of wine, handed them to the purchasers and gave the agent thirty-five cents change. The agent joined his fellow agent and, thereafter, both were admitted to the licensed premises wherein they identified themselves to Moore and apprised him of the violations. Moore admitted the unlawful sale to the agent, but denied making any other unlawful sale before the 1 p.m. opening hour.

Defendant has no prior adjudicated record. I shall suspend its license for thirty days (the minimum penalty imposed for the violations charged herein). Re Moscatello, Bulletin 1327, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 3rd day of October 1960,

ORDERED that plenary retail consumption license C-168, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Old Homestead Tavern, Inc., t/a Old Homestead Tavern, for premises 76 Kearny Avenue, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, October 10, 1960, and terminating at 2 a.m. Friday, November 4, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

- 8. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - CONDUCTING BUSINESS DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Texas Foods, Inc.
31 Montgomery Street
Jersey City, N. J.

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-227 issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

ORDER

Defendant-licensee, by Harry A. Vlismas, President.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that (1) it sold, served and delivered during prohibited hours alcoholic beverages in their original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38, and (2) it conducted its licensed business during prohibited hours, in violation of a local ordinance.

On Saturday, August 27, 1960 at 2:30 a.m., an ABC agent purchased from John Lonneau, a bartender in defendant's premises, two cans of Ballantine beer for off-premises consumption. The agent had previously observed the sale by the bartender at about 2:20 a.m. of a pint bottle of whiskey to a patron for off-premises consumption. The agent left the premises with the two cans of beer and immediately returned with another agent who had remained outside the premises. The agents identified themselves to the bartender who had made the sale, and he verbally admitted the violation.

Defendant corporate licensee has no prior adjudicated record. However, when the license for the premises was held in the individual names of Fred Kalasarines and Harry Vlismas (the latter is the president and principal stockholder of the corporate licensee herein) their license was suspended by the Director for thirty-five days, effective February 3, 1958, for a number of violations, including an

"hours" regulation. Re Kalasarines and Vlismas, Bulletin 1211, Item 3.

Hence, this is the second "hours" violation within the past five years. The minimum penalty of fifteen days imposed for violation of Rule 1 of State Regulation No. 38 will, therefore, be doubled, to which will be added five days for the violation set forth in Charge 2, making a total suspension of thirty-five days. Re Murphy, Bulletin 1298, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 4th day of October 1960,

ORDERED that Plenary Retail Consumption License C-227 issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Texas Foods, Inc., for premises 31 Montgomery St., Jersey City, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m., Tuesday, October 11, 1960 and terminating at 2:00 a.m., Thursday, November 10, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA - EFFECTIVE DATES TO BE FIXED BY FURTHER ORDER.

In the Matter of Disciplinary Proceedings against
Edward Anthony Florkowski & Anna A. Florkowski
t/a Windsor Hotel
S.W. Cor. First & Atlantic Avenues
North Wildwood, PO Wildwood, N. J.

Holders of Plenary Retail Consumption License C-5, issued by the Mayor and Council of the City of North Wildwood.

CONCLUSIONS
AND
ORDER

James S. Cafiero, Esq., Attorney for Defendant-licensees.
William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they possessed on their 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 29, 1960, an ABC agent tested defendants' open stock of liquor and seized a number of bottles for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of four of the bottles varied substantially in solids and acids when compared with an analysis of the contents of genuine bottles of the labeled brands.

Defendants have no prior adjudicated record. Defendants deny that they tampered with the bottles and believe that a temporary bartender may have refilled the bottles. Nevertheless, they are responsible for the violation. Rule 33 of State Regulation No. 20. I shall suspend defendants' license for a period of twenty days, the minimum penalty imposed in cases involving four bottles. Re Lydecker, Bulletin 1342, Item 3. Five days will be remitted for the plea

entered herein, leaving a net suspension of fifteen days.

Investigation discloses that at the present time defendants' business is being operated on a limited basis. Under the circumstances, I shall enter a further order fixing the period of suspension to become effective at a subsequent time.

Accordingly, it is, on this 6th day of October, 1960,

ORDERED that Plenary Retail Consumption License C-5, issued by the Mayor and Council of the City of North Wildwood to Edward Anthony Florkowski and Anna A. Florkowski, t/a Windsor Hotel, for premises on S.W. Cor. First and Atlantic Avenues, North Wildwood, be and the same is hereby suspended for fifteen (15) days, the effective time and date to be fixed by subsequent order.

WILLIAM HOWE DAVIS
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING POSSESSION OF ALCOHOLIC BEVERAGES NOT TRULY LABELED DISMISSED.

In the Matter of Disciplinary Proceedings against)

Stephen Kosty & Emil F. Rutkowski)
t/a Twin City)
725-727 Edgar Road)
Elizabeth, New Jersey)

CONCLUSIONS

AND

Holders of Plenary Retail Consumption License C-60, issued by the City Council of the City of Elizabeth.)

ORDER

Defendant-licensees, Pro se.
William F. Wood, 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 possessed on their 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.

"It appears from the evidence presented by the Division that on September 24, 1959 an ABC agent tested defendants' open stock of alcoholic beverages and seized two bottles when the contents of one appeared to vary in proof and the other in proof and color. The said bottles were submitted to the Division chemist whose analysis disclosed some variation in solids in one bottle and proof and solids in the other.

"The defendants had an analysis made of each of the questionable bottles by representatives of the manufacturers thereof. In a letter made part of the record herein, the representatives of each manufacturer explained that the slight variation in proof might be explained by the length of time each bottle was permitted to remain open and the variation in solids might be attributed to outside factors. I am cognizant that the burden of proof is upon the Division in proceedings such as that under consideration. In this case, the proof appears to me to be insufficient to sustain the burden and defendants should be given the benefit of the doubt. Re Keeley, Bulletin 676, Item 7.

"Under the circumstances, I therefore recommend that the charge herein be dismissed."

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

After carefully considering the evidence, I concur in the conclusions of the Hearer and shall adopt his recommendation. I find defendants not guilty of the charge herein.

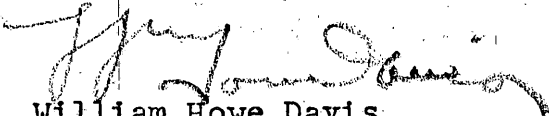
Accordingly, it is, on this 10th day of October 1960,

ORDERED that the charge herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

11. STATE LICENSES - NEW APPLICATION FILED.

Henrich & Krauszer Inc.
805-811 Georges Road
North Brunswick, New Jersey
Application filed November 21, 1960
for Additional Warehouse License on
State Beverage Distributor's License
SBD-69, for premises at 252 George
Street, New Brunswick, New Jersey.



William Howe Davis
Director.