

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1180 Raymond Blvd. Newark 2, N. J.

BULLETIN 1211

MARCH 10, 1958.

TABLE OF CONTENTSITEM

1. APPELLATE DECISIONS - FAUSH, CORSEY, MOSLEY, AND PENICK v. DEPTFORD TOWNSHIP AND WILCOX.
2. APPELLATE DECISIONS - WALNUT BAR AND GRILL, INC. v. PENNS GROVE (APPEAL DISMISSED).
3. DISCIPLINARY PROCEEDINGS (Jersey City) - CONDUCTING BUSINESS DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - EMPLOYING BARTENDER WITHOUT REQUIRED LOCAL IDENTIFICATION CARD - FAILURE TO KEEP COPY OF APPLICATION ON PREMISES - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.
4. DISCIPLINARY PROCEEDINGS (Newark) - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - TRANSPORTATION WITHOUT PROPER INVOICE OR MANIFEST - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
5. STATE REGULATIONS - REGULATION NO. 21 SUPPLEMENTED BY ADDITION OF NEW RULE PROHIBITING IMPROPER ADVERTISING OF ALCOHOLIC BEVERAGES.
6. DISCIPLINARY PROCEEDINGS (Somers Point) - SALES TO MINORS - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 25 DAYS.
7. DISCIPLINARY PROCEEDINGS (Franklin Township, Gloucester County) - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE) - PRIOR RECORD - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Edgewater) - SALES TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Atlantic City) - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
10. STATE LICENSES - NEW APPLICATIONS FILED.
11. DISCIPLINARY PROCEEDINGS (Princeton) - SALES TO MINORS - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

...the ... of ...  
...the ... of ...  
...the ... of ...

... ..

... ..  
... ..

... ..  
... ..

... ..  
... ..  
... ..  
... ..

... ..  
... ..  
... ..

... ..  
... ..

... ..  
... ..

... ..  
... ..  
... ..

... ..  
... ..

... ..  
... ..

... ..  
... ..

... ..  
... ..

... ..  
... ..

... ..  
... ..

... ..  
... ..

... ..  
... ..

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

BULLETIN 1211

MARCH 10, 1958.

1. APPELLATE DECISIONS - FAUSH, CORSEY, MOSLEY, AND PENICK v.  
DEPTFORD TOWNSHIP AND WILCOX.

WILLIAM FAUSH, PEARL CORSEY, )  
MAE MOSLEY, MILDRED PENICK, )  
Appellants, )  
-vs- ) ON APPEAL  
TOWNSHIP COMMITTEE OF THE ) CONCLUSIONS AND ORDER  
TOWNSHIP OF DEPTFORD, and )  
WILLIAM WILCOX, )  
Respondents. )

-----  
Cahill & Wilinski, Esqs., by William T. Cahill, Esq.,  
Attorneys for Appellants.

Caulfield & Zamal, Esqs., by Martin F. Caulfield, Esq.,  
Attorneys for Respondent William Wilcox.

Hannold & Hannold, Esqs., by Harold W. Hannold, Esq.,  
Attorneys for Respondent Township Committee.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Appellants have filed an appeal from the action of respondent Township Committee whereby it granted a transfer of a 1956-57 plenary retail consumption license from Charles M. Brown and Mary C. Brown to respondent William Wilcox for premises on the N/e corner of Park and Lippincott Avenues, Deptford Township, and also for the renewal of said license by the respondent Township Committee for the current licensing year.

"It might be well in order to understand the issues to be determined in this proceeding, that a brief chronology with reference to the license in question and other events pertinent thereto, be considered. Prior to June 17, 1957 (the meeting at which the transfer of license was approved) the license was held for many years by Charles M. and Mary C. Brown. Although the Browns operated the establishment for a number of years after the license was acquired by them, it is undisputed that during the past three or more years the license has been inactive. It further appears that at the time the transfer, and later the renewal of the license to respondent Wilcox, was granted by respondent Township Committee, the first floor of the building which was to constitute part of the licensed premises was occupied by a tenant and according to the uncontradicted testimony of various witnesses, was so occupied at the time of the hearing of the instant appeal. A lease dated and effective June 21, 1957 for a period of one year from Ivory Buck, the owner of the premises, to respondent Wilcox which specified that the first floor of the building to be used as the licensed premises, is marked as an exhibit in evidence herein.

"The question immediately arises as to whether on June 17, 1957 the transfer of the license for the premises occupied by a third party was properly granted by the respondent Committee to permit respondent Wilcox to operate a liquor establishment in the premises. It is apparent that respondent Wilcox had no

interest in or right to possession of the proposed premises. Moreover, at the time the renewal of the license for the current licensing period was granted, the proposed premises was still occupied by the third party as a tenant. Mayor Robert Morris, the only member of respondent Township Committee who appeared and testified at the within hearing, stated that he did not inspect the interior of the premises to which the license was transferred, but was aware that the first floor was occupied by a tenant.

"Mayor Morris and Township Clerk Thomas Quinn testified that there were no objections, written or otherwise, at the respective hearings when both the transfer and the renewal of the license were granted to respondent Wilcox. Various witnesses who testified on behalf of the appellants, contended that they had no knowledge that applications for the respective transfer and renewal of the license to respondent Wilcox were filed. The reason given for lack of knowledge was that the newspaper in which the publications of notices were advertised has no general circulation in their respective area and if they desired to obtain a copy thereof, it was necessary to go to stores located in an adjoining municipality. It has also been contended on behalf of appellants that respondent Wilcox, who is the operator of a liquor establishment in the Township, by reason of his negligent operation, is unfit to be a liquor licensee. To substantiate this contention, two members of the New Jersey State Police were called and testified at the appeal hearing to various incidents happening in or near respondent Wilcox's tavern in the past several years.

"However, it is unnecessary to evaluate this testimony because it is apparent that respondent Wilcox has never had the requisite possession of the proposed premises. The record is clear that the first floor of the proposed premises has been occupied by a third party; not only when the respective transfer and renewal was granted by the respondent Township Committee, but also at the hearing of this appeal.

"There has been nothing produced herein which might indicate in any manner whatsoever that the respondent Wilcox had such a sufficient possessory interest in the proposed premises as to entitle him to favorable action on his respective applications. Cf. Minsky v. Woodbridge, Bulletin 882, Item 4; Eavenson et al. v. South Orange et al., Bulletin 283, Item 8.

"It is recommended that an order be entered reversing the action of the respondent Township Committee whereby it granted the transfer and renewal of the license in question."

Subsequent to my hearing of oral argument by the attorneys herein, a written stipulation signed by the attorneys for the respective parties to this appeal was filed with me.

The said stipulation reads as follows:

"The parties hereto, having appeared at a hearing upon the above matter, and having argued the matter orally before the Director, they hereby agree and stipulate that if the determination of the Director contains the following conditions and stipulations, that it would be a fair and just determination of the matters and differences involved, and that they would abide by such determination.

"(1) The transfer and renewal of Plenary Retail Consumption License C-7, Deptford Township, to William Wilcox, shall be set aside.

"(2) Charles and Mary Brown may, within a short time, apply for an issuance of the same license at the same location, solely for the purpose of keeping the license in force, under the express condition that said license may not be operated at that location.

"(3) Charles and Mary Brown shall effect a transfer of said license before the next licensing period under the following conditions:

"(a) Neither William Wilcox nor any members of his family, nor any corporation or other association or combination of persons in which either he or they or any of them has an interest may be the new licensee.

"(b) The new licensed premises shall not be in the present location, and not within four blocks West of it, four blocks East of it, nor six blocks North of it.

"It is further stipulated and agreed that these conditions are made in good faith, for the best interests of all parties concerned, and that a prime moving purpose is that a severe financial loss may not be inequitably sustained."

Inasmuch as the differences expressed in the appeal appear to have been amicably settled to the satisfaction of the parties hereto, I see no reason why the said stipulation should not be approved by me.

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

ORDERED that the action of the respondent Township Committee be and the same is hereby reversed; and it is further

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Deptford for the year 1956-57, revert as of June 30, 1957 to the former holders thereof, Charles M. and Mary C. Brown, who shall abide by all the provisions in the stipulations included in the conclusions herein; and it is further

ORDERED that Charles M. and Mary C. Brown may make application forthwith for the renewal of said license in the current licensing period for the sole purpose of permitting a person-to-person transfer thereof to a bona fide person whose application for transfer will be subject to the discretion of the respondent Township Committee in the first instance and appealable thereafter. (R. S. 33:1-26).

WILLIAM HOWE DAVIS  
Director.

2. APPELLATE DECISIONS - WALNUT BAR AND GRILL, INC. v. PENNS GROVE (APPEAL DISMISSED).

WALNUT BAR AND GRILL, INC., )

Appellant, )

-vs- )

MAYOR AND COUNCIL OF THE )  
BOROUGH OF PENNS GROVE, )

Respondent. )

ON APPEAL  
O R D E R

-----)  
George S. Friedman, Esq., Attorney for Appellant.  
Gerard J. DiNicola, Esq., Attorney for Respondent.

BY THE DIRECTOR:

Appellant appealed from the action of respondent whereby respondent suspended its License C-1, for premises 55-57 Walnut Street, Penns Grove, for sixty days, effective at 7:00 a.m. January 2, 1958. Said suspension was imposed after respondent had found appellant guilty of a charge alleging that it permitted a brawl on its licensed premises. This appeal was filed after the suspension became effective and, on January 7, 1958, I entered an order staying said order of suspension until the entry of a further order herein. R. S. 33:1-31.

On January 28, 1958, prior to hearing herein, the attorneys for both parties filed a consent to discontinuance of the appeal. No reason appearing to the contrary,

It is, on this 31st day of January, 1958,

ORDERED that the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that the sixty-day suspension (less five days served before the entry of my order on January 7, 1958) is hereby restored to become effective at 7:00 a.m. February 3, 1958, and to terminate at 7:00 a.m. March 30, 1958.

WILLIAM HOWE DAVIS  
Director.

3. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - EMPLOYING BARTENDER WITHOUT REQUIRED LOCAL IDENTIFICATION CARD - FAILURE TO KEEP COPY OF APPLICATION ON PREMISES - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

NICHOLAS FRED KALASARINES )  
and HARRY VLISMAS )  
31 Montgomery Street )  
Jersey City, N. J., )

CONCLUSIONS AND ORDER

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

Alexis and Gonis, Esqs., by Peter G. Alexis, Esq., Attorneys for Defendant-licensees.  
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

"1. On Saturday, December 14, 1957, between 3:45 a.m. and 4:55 a.m., you conducted your licensed premises; in violation of Section 4 of Ordinance No. K1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950. *15 days*

"2. On Saturday, December 14, 1957, between 3:45 a.m. and 4:55 a.m., you engaged and employed on your licensed premises in connection with your licensed business a person as a counterman and waiter who had not been issued an identification card by the Department of Public Safety of the City of Jersey City in conformity with Sections 13 and 14 of an Ordinance No. K1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950; in violation of Section 15 of such Ordinance. *5 days*

"3. On Saturday, December 14, 1957, between 3:45 a.m. and 4:55 a.m., you conducted your licensed business without keeping a photostatic or other true copy of your application for your current license on your licensed premises available for inspection; in violation of Rule 16(b) of State Regulation No. 20. *10 days*

"4. On Saturday, December 14, 1957, between 4:55 a.m. and 5:15 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." *10*

The file herein discloses that at 3:45 a.m., Saturday, December 14, 1957, five ABC agents visited defendants' licensed premises and took seats at a table opposite a lunch counter. Two males, later identified as James Maheras and Nicholas Arvanites, were serving about twenty persons at the counter. Arvanites drew five cups of coffee from an urn, poured a shot of whiskey from a bottle under the counter into each cup and served the beverages to the agents. The agents observed that the customers at the counter were being served similar concoctions by both Maheras and Arvanites. After the agents had received a second round of "coffee royal", they identified themselves and seized two partially filled bottles of whiskey from behind the counter which, together with samples of the drinks served to them, were turned over to the Division's chemist for analysis. Arvanites later admitted the violation and the fact that he had never been issued a work permit as required by the local ordinance, and Maheras, who was uncooperative, refused to locate for the agents defendants' license application. Neither employee threatened or used any violence against the agents, but it is clear that they failed to facilitate the investigation.

Defendants have no prior adjudicated record. I shall suspend their license for fifteen days on Charge 1, Re Bicsak, Bulletin 1076, Item 7; five days on Charge 2, Re Ciampa, Bulletin 1169, Item 11; ten days on Charge 3, cf. Re Morrisroe, Bulletin 1153, Item 5, and, under the circumstances, ten days on Charge 4, Re Seddon, Bulletin 1195, Item 2, 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 27th day of January, 1958,

ORDERED that Plenary Retail Consumption License C-227, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Nicholas Fred Kalasarines and Harry Vlismas, for premises 31 Montgomery Street, Jersey City, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. February 3, 1958 and terminating at 2:00 a.m. March 10, 1958.

WILLIAM HOWE DAVIS  
Director.

4. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - TRANSPORTATION WITHOUT PROPER INVOICE OR MANIFEST - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

JOSEPH CEASAR )  
t/a CEASAR'S LIQUOR STORE )  
111 Ferry Street )  
Newark 5, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-94, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )  
----- )

Martin Gelber, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that (1) he 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; and (2) he transported and delivered alcoholic beverages in his licensed vehicle without the driver thereof having in his possession a bona fide invoice or manifest therefor, in violation of Rule 3 of State Regulation No. 17.

The file herein discloses that on the dates set forth in Charge (1), viz., November 7, 8, 14 and 15, 1957, the defendant sold sundry brands of alcoholic beverages below the minimum consumer resale prices as set forth in the then currently effective Minimum Consumer Resale Price List.

The file further discloses that at various times during the months of October and November, 1957, the defendant transported in his licensed vehicle and delivered orders of alcoholic beverages to customers. The delivery slips and waybills or similar documents covering these items did not include information as to the brand names or sizes of the containers of the items being transported and delivered, as required by Rule 3 of State Regulation No. 17.

Defendant's attorney, in attempted mitigation of penalty to be imposed for the violations committed by the defendant, contends that the violations "occurred through a misconception of the ABC regulations, completely unintentionally."

Ignorance of the law or regulation affords no excuse. Licensees and their employees must know the rules and scrupulously adhere to them. Re Kaczyckij, Bulletin 1116, Item 11. Moreover, in a statement given to ABC agents, defendant said that he sold the cases of wine below the minimum price in order to meet competition.

While defendant has no prior adjudicated record, because of the number of violations involved in Charge (1), I shall

suspend defendant's license for twenty days on Charge (1) (Re Bond Wine and Liquor Store, Bulletin 1142, Item 4) and for an additional ten days on Charge (2) (Re Ginsberg, Bulletin 1099, Item 10), making a total suspension of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 27th day of January, 1958,

ORDERED that Plenary Retail Distribution License D-94, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Joseph Ceasar, t/a Ceasar's Liquor Store, for premises 111 Ferry Street, Newark, be and the same is hereby suspended for twenty-five (25) days, commencing at 9:00 a.m. February 3, 1958, and terminating at 9:00 a.m. February 28, 1958.

WILLIAM HOWE DAVIS  
Director.

5. STATE REGULATIONS - REGULATION NO. 21 SUPPLEMENTED BY ADDITION OF NEW RULE PROHIBITING IMPROPER ADVERTISING OF ALCOHOLIC BEVERAGES.

TO ALL MANUFACTURERS, IMPORTERS, WHOLESALERS AND RETAILERS:

Through the years since Repeal, the Department (now Division) has made and enforced, in the interest of the public and of the industry, necessary special rulings with respect to advertising of alcoholic beverages. In the light of responses to my notice of September 30, 1957 and in keeping with subsequent discussions with representatives of the industry and the press, it is deemed desirable and wholesome to establish at this time as a new and formal regulation (instead of in amendment of State Regulation No. 30) a rule encompassing the principal objectives of the indicated rulings and prohibiting clearly harmful and offensive price advertising. Accordingly, State Regulation No. 21 is amended by the addition thereto of a new Rule 6 reading as follows:

Rule 6. No manufacturer, importer, wholesaler or retailer shall advertise in any periodical, publication, circular, handbill or direct mailing piece any statement, illustration, design, device or representation with respect to an alcoholic beverage which is false or misleading, or is obnoxious or offensive to the commonly and generally accepted standards of fitness and good taste, or which by format stresses and features in a blatant and gaudy manner a pecuniary appeal, or is of a nature tending to foster or encourage intemperance or to induce minors to purchase or consume alcoholic beverages.

WILLIAM HOWE DAVIS  
Director.

Promulgated February 28, 1958.

Effective March 15, 1958.

Filed with the Secretary of State (N. J.) February 28, 1958.

6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against )

JOSEPH I. MAENNER & SONS, INC. )  
T/a MAENNER'S CAFE )  
2-4 Broadway )  
Somers Point, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-16, issued by the Common Council of the City of Somers Point. )

-----  
Emory J. Kiess, 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 charge:

'On Saturday, August 31, 1957, 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., David R. ---, age 18, and Girard F. ---, 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.'

"At the hearing herein the Division called as its witnesses Girard ---, David R. ---, John Lipowski and an ABC agent hereinafter referred to as Agent T.

"Girard, David and Lipowski testified their respective dates of birth are January 25, 1938; October 13, 1938 and August 29, 1936. They further testified that on Saturday night, August 31, 1957 at about 10:00 or 10:30, they entered the defendant's licensed premises; that the premises at the time were crowded; that they stood alongside of each other at a smaller of two bars on the premises; that they each ordered and consumed a bottle of Miller's beer served to them by the bartender then on duty who accepted \$1.50 in payment thereof from Girard; that they were not questioned or required to make any written representation as to their ages; and that they were on the premises for a period of about one-half hour after which they left the same. Girard and Lipowski stated they had also visited the licensed premises prior to August 31, 1957 and Anderson stated that he had not been on the premises prior to August 31st aforesaid.

"Agent T testified that he participated in the investigation of aforesaid alleged violation; that on September 10, 1957 at about 4:00 p.m. another ABC agent, Capt. Young of the Ocean City Police Department and he were directed to the licensed premises by the aforesaid three boys and that they entered the premises; that he identified himself to Joseph I. Maenner (the only person in the premises) in whose presence the three boys pointed out the smaller bar as the place where they had consumed

the beer; that none of the bartenders who worked the night of August 31st aforesaid were present and that none of the youths recognized Maenner as the person who served them on August 31, 1957 aforesaid.

"On cross-examination, Girard, David and Lipowski stated that on the night of August 31st aforesaid, they were at Somers Point where they visited three taverns in the following order: Longo's, Maenner's and O'Byrne's, and then returned to Longo's; that they did not recall whether they had one or two rounds of beer at Maenner's, but were certain of having one drink there paid for by Girard and that on September 1, 1957 at about 12:30 a.m., they were arrested in Ocean City following their second visit to Longo's.

"Defendant called six witnesses, Joseph I. Maenner, president of the corporate-licensee; Thomas M. Sullivan, a part-time employee of defendant-licensee, and Gerald W. Faiss, Donald J. Price, John J. Lombard, Jr. and Joseph P. O'Flynn, employed as temporary police officers by the Ocean City Police Department in the summer of 1957.

"Mr. Maenner testified he is the president of the corporate licensee; that on the night in question he left the premises shortly after 10:00 p.m.; that Thomas Sullivan was hired to stand at the front entrance to the premises from 7:00 p.m. to 2:30 a.m. the following morning; that it was Sullivan's job to prevent minors from entering the premises; that when he left the premises, he saw Sullivan at his station; that the side door to the premises was locked; that about 10:00 o'clock that evening there were between 125 to 150 patrons on the premises; that between 9:30 and 10:00 p.m. he was talking to the patrons at the bar; that he did not recall seeing the aforesaid three young men on the premises; that he was unable to say if they were served any beer; that effective October 3, 1955, when he individually held a license for the premises, it was suspended for ten days for sale to minors.

"Sullivan testified that on the night in question he arrived at the premises about 6:30 p.m.; that he checked and found the door leading to the side entrance of the premises locked; that he stationed himself at the front entrance; that he remained there for the night; that he was there between 10:00 and 10:30 p.m.; that it was his duty to 'check age cards' of persons who appeared to be under the age of 21; that at about 10:30 p.m. the crowd was at its peak; that if any of the aforesaid three young men had attempted to enter the premises he would have stopped them and checked their ages because they appear to be under 21 years of age; that he is positive that he did not see them enter the premises because in order to do so they would have to pass him at the only open entrance to the premises and that he does not recall checking the ages of any patrons between 10:00 and 10:30 p.m.

"Faiss and Price testified that they were employed as temporary police officers for the Ocean City Police Department in summer of 1957; that on September 1, 1957 at about 12:45 a.m. while patrolling the streets in their car, they came upon a Ford automobile occupied by Girard, David, Lipowski and another young fellow who apparently had sustained some injuries; that they took Girard, David and Lipowski into custody; that Price asked them if they had been drinking; that the boys replied, 'We had a few beers in Longo's'; that they did not ask them if they had visited any other taverns that night, nor

did the three young men volunteer any such information and that none of these boys were intoxicated.

"Lombard and O'Flynn testified that they were likewise employed as temporary police officers for the Ocean City Police Department in the summer of 1957; that on September 1, 1957 at about 12:45 a.m. they had occasion to interview Girard; that O'Flynn asked him, 'Where were you drinking this night?' or 'Where were you fellows drinking?'; that Girard replied, 'Longo's' and that they did not ask Girard if he had been to any other tavern that night.

"Price also testified that on August 31, 1957 between 7:00 and 8:00 o'clock at night, O'Flynn, Faiss and he were having dinner at the defendant's licensed premises; that he observed the side door to the premises to be closed and that Sullivan was at the front door at 7:00 p.m. when they arrived and at 8:00 p.m. when they departed.

"I am satisfied that Girard, David and Lipowski, their adult companion, were on defendant's licensed premises on the night in question between 10:00 and 10:30 p.m. and that they gave an accurate and truthful account of what transpired therein at the time. It is to be noted that none of the defendant's witnesses makes a direct denial of these facts. The defendant bases its defense on inferences to be drawn from the testimony of their witnesses and from the statements of the minors to the police officers at the time of their arrest as aforesaid. I do not feel that this evidence is sufficient to overcome the positive statements of Girard, David and Lipowski who appear to have no ulterior motive in testifying as they did. Under the circumstances and after careful consideration of all the testimony adduced in the instant case, I recommend that defendant be adjudged guilty of the charge preferred herein.

"The minimum penalty imposed for sale of alcoholic beverages to an 18-year-old minor is fifteen days. Re Hedge, Bulletin 1176, Item 3. However, in 1955 when Joseph I. Maenner, the president and 98% shareholder of the corporate-licensee herein, held a license for the same premises, his license was suspended for ten days for sale to minors. Since the prior similar violation occurred within a five-year period, I recommend that the defendant's license be suspended for a period of twenty-five days. Re Tu-Dor Tavern, Bulletin 1163, Item 2; cf. Re Peek, Bulletin 1145, Item 8."

Written exceptions to the Hearer's Report and argument in support thereof were filed within time pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the transcript of the proceedings herein, the Hearer's Report, the exceptions taken thereto and the argument advanced by defendant's counsel, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 22nd day of January, 1958,

ORDERED that Plenary Retail Consumption License C-16, issued by the Common Council of the City of Somers Point to Joseph I. Maenner & Sons, Inc., t/a Maenner's Cafe, for premises 2-4 Broadway, Somers Point, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. February 3, 1958, and terminating at 3:00 a.m. February 28, 1958.

WILLIAM HOWE DAVIS  
Director.

7. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE) - PRIOR RECORD - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

STEPHEN BAJEWICZ )  
T/a STEVE'S TAVERN )  
S/S Clayton Road, Fries Mill )  
Franklin Township )  
PO Franklinville, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-14, issued by the Township Committee of the Township of Franklin, (Gloucester County). )

Moe A. Joseph, Esq., Attorney for Defendant-licensee.  
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On August 4, 1957, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene conduct in and upon your licensed premises in that a female entertainer performed in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulation No. 20."

The file herein discloses that at about 12:20 a.m., Sunday, August 4, 1957, ABC agents, who were in defendant's licensed premises, observed a female entertainer execute a dance which consisted mainly of bumps and grinds. She appeared later clad in less attire and gave a similar performance. When she had concluded her act, the agents identified themselves to the licensee and informed him that the dancer's actions constituted a violation. The licensee stated that he had told the entertainer not to do any bumps and grinds.

By way of mitigation, defendant's attorney submitted a letter wherein he states that he interviewed a number of prominent persons who witnessed the performances in the licensed premises on the date alleged and that they were of the opinion that there was nothing improper or indecent about the dance. He stated further that the licensee gives specific instructions to his booking agent to provide clean entertainment and instructs the performers prior to each show that the act must in no way be suggestive.

Defendant has a prior adjudicated record. Effective April 2, 1951, his license was suspended for twenty-five days by the then Director for a violation similar to that charged herein. The usual penalty imposed for permitting an indecent dance on licensed premises when otherwise unaggravated is thirty days. Re Little Cotton Club, Inc., Bulletin 1005, Item 11. However, in view of the mitigating circumstances, I shall suspend defendant's license for a period of twenty days, Re Albanese & Calazzo, Bulletin 1183, Item 5, to which five days will be added for the prior similar violation which occurred more than five years ago but within a ten-year period, making a total suspension of twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

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

ORDERED that Plenary Retail Consumption License C-14, issued by the Township Committee of the Township of Franklin to Stephen Bajewicz, t/a Steve's Tavern, for premises on S/S Clayton Road, Fries Mill, Franklin Township, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. January 28, 1958, and terminating at 3:00 a.m. February 17, 1958.

WILLIAM HOWE DAVIS  
Director.

NOTE: The above suspension was advanced to commence at 3:00 a.m. January 27, 1958, and to terminate at 3:00 a.m. February 16, 1958, by order dated January 23, 1958.

8. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

BELANN TAVERN, INC. )  
T/a BELANN TAVERN, INC. )  
2 Hilliard Avenue )  
Edgewater, N. J., )

CONCLUSIONS  
AND ORDER

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

Defendant-licensee, by David O'Shea, President.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold, served and delivered alcoholic beverages to three minors and permitted said minors to consume said beverages in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that on Saturday, January 4, 1958, at about 10:50 p.m., two ABC agents entered the defendant's licensed premises and observed three apparent minors (two U. S. sailors and a young lady) consuming beer at the bar. Five minutes later the agents saw the bartender, George Grace, serve another glass of beer to each minor. After the minors had consumed part of their beer, the agents identified themselves to them and learned their names and ages to be: Wilbur --- (age 18), Dorothy --- (age 18) and Charles --- (age 19).

Each of the minors gave to the ABC agents a sworn, written statement wherein they state that each of them was served two glasses of beer by George Grace, the bartender; that the price of the beer was fifteen cents a glass and that each told the bartender that he or she was 21 years of age but that none of them was required to sign any written representation as to his or her age, as required by R. S. 33:1-77.

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

Defendant has no prior adjudicated record. The minimum penalty for the sale of alcoholic beverages to an 18-year-old minor is fifteen days, Re O'Byrne, Bulletin 1201, Item 5, to which five days will be added because three minors were involved, Re Jim's Restaurant, Inc., Bulletin 1164, Item 12. I shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 23rd day of January, 1958,

ORDERED that Plenary Retail Consumption License C-2, issued by the Mayor and Council of the Borough of Edgewater to Belann Tavern, Inc., t/a Belann Tavern, Inc., for premises 2 Hilliard Avenue, Edgewater, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. February 3, 1958, and terminating at 3:00 a.m. February 18, 1958.

WILLIAM HOWE DAVIS  
Director.

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

In the Matter of Disciplinary Proceedings against )

THE CLOCK BAR & GRILL, INC. )  
T/a THE CLOCK )  
19-21 So. Tennessee Avenue )  
Atlantic City, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-153, issued by the Board of Commissioners of the City of Atlantic City. )

-----  
Defendant-licensee, by Roy C. Sutton, President.  
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant has pleaded non vult to a charge alleging that it sold, served and delivered alcoholic beverages to a minor and permitted the consumption of such beverages by said minor in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that on December 10, 1957, ABC agents obtained a signed, sworn statement from John ---, age 20, a sailor attached to a naval air station, in which he states that he entered defendant's licensed premises at about 1:30 a.m. Saturday, November 16, 1957, and sat at the bar until 3:00 a.m., during which time he consumed several bottles of beer served to him by the bartender who required no written proof of his age. An adult sailor who was with John on the date alleged,

gave the agents a signed, sworn statement in which he corroborates the events related by John. Later, he and John directed the agents to defendant's licensed premises which they identified as the place where John had been served alcoholic beverages. They could not identify therein either Roy Sutton (holder of 66 shares of defendant's corporate stock) or the bartender then on duty as the person who made the sale.

When it is established that the minor purchased, had served to him or was permitted to consume an alcoholic beverage at the licensed premises, his failure to identify the specific person who made the sale is not fatal in disciplinary proceedings. Re Dante, Bulletin 771, Item 9.

Defendant has a prior adjudicated record. Effective March 31, 1952 its license was suspended for five days by the then Acting Director for a violation similar to that charged herein. Re The Clock Bar & Grill, Inc., Bulletin 931, Item 11. It has been represented that, subsequent to the above violation, the former stockholders transferred their respective shares of stock to the present stockholders. Nevertheless, the law still regards the corporation as the same entity that it had been. Re Great Arrow Investment Corp., Bulletin 1175, Item 5. I shall suspend defendant's license for the minimum period of ten days, Re Zhelesnik, Bulletin 1167, Item 11, to which five days will be added for the prior similar violation which occurred more than five years ago, but within a ten-year period, making a total suspension of fifteen days. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 22nd day of January, 1958,

ORDERED that Plenary Retail Consumption License C-153, issued by the Board of Commissioners of the City of Atlantic City to The Clock Bar & Grill, Inc., t/a The Clock, for premises 19-21 So. Tennessee Avenue, Atlantic City, be and the same is hereby suspended for ten (10) days, commencing at 7:00 a.m. February 3, 1958 and terminating at 7:00 a.m. February 13, 1958.

WILLIAM HOWE DAVIS  
Director.

#### 10. STATE LICENSES - NEW APPLICATIONS FILED.

Riss & Company, Inc.

Pennsylvania Avenue, South Kearny, N. J.

Application filed March 10, 1958 for place-to-place transfer of Transportation License T-43 from Route 1 & Sip Avenue, Jersey City, N. J.

Super Service Motor Freight Co., Inc.

t/a Super Service

Jacobus Ave. & Third St., South Kearny, N. J.

Application filed March 10, 1958 for additional warehouse at Springfield Road and Progress Street, Union, N. J., on Transportation License T-177.

WILLIAM HOWE DAVIS  
Director.

11. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE  
SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

FRANK G. EVATT, JR. )  
T/a PEACOCK INN )  
20 Bayard Lane )  
Princeton, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Borough Council of the Borough of Princeton. )

-----  
Frank G. Evatt, Jr., Defendant-licensee, Pro se.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to five minors and permitted the consumption of such beverages by said minors in and upon his licensed premises in violation of Rule 1 of State Regulation No. 20.

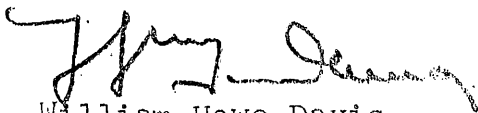
The file herein discloses that on Saturday, November 23, 1957, ABC agents entered defendant's licensed premises wherein they observed three apparent minors seated at a table on which were several "pizza pies" and three bottles of beer. At about 9:50 p.m., two more apparent minors arrived and seated themselves at a table in the rear service room. A waiter, identified as Michael Koscsco, Jr., served these minors a bottle of beer each and another waiter, identified as George Nemeth, served a second bottle of beer to each of the aforesaid group of three. When the agent saw the five apparent minors consume some of the beverages, they made their identity known and seized the remaining portion of their drinks for evidential purposes after the youths identified themselves as Edith ---, age 17, Thomas ---, age 19, Fred ---, age 20, Peter ---, age 20, and Hampton ---, age 20. Koscsco gave the agents a signed sworn statement in which he admits that he served the aforesaid minors alcoholic beverages without requiring any proof of their ages.

Defendant has no prior adjudicated record. The minimum penalty for a sale of an alcoholic beverage to a seventeen-year-old minor, otherwise unaggravated, is twenty days. Re O'Donnell, Bulletin 1131, Item 9. Because of the number of minors involved five days will be added. Re Supel, Bulletin 1187, Item 5. I shall suspend defendant's license for a period of twenty-five days and remit five days for the plea entered herein, leaving a net suspension of twenty days.

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

ORDERED that Plenary Retail Consumption License C-9, issued by the Borough Council of the Borough of Princeton to Frank G. Evatt, Jr., t/a Peacock Inn, for premises 20 Bayard Lane, Princeton, be and the same is hereby suspended for twenty (20) days, commencing at 7:00 a.m. January 28, 1958, and terminating at 7:00 a.m. February 17, 1958.

New Jersey State Library

  
William Howe Davis  
Director.