

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 5, N. J.

BULLETIN 1125

AUGUST 7, 1956.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 5, N. J.

BULLETIN 1125

AUGUST 7, 1956.

1. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED
FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

RONALD ENTERPRISES, INC.
T/a NEW RUSTIC CABIN
Sylvan Boulevard
Englewood Cliffs, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-3 for the 1955-56 and the 1956-57 licensing years, issued by the Borough Council of the Borough of Englewood Cliffs.

Ronald Enterprises, Inc., by Lloyd Douglas, President.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On Sunday, May 20, 1956, 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., Marta ---, age 17, Helen ---, age 17, Arthur W. ---, age 19 and Donald J. ---, 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 Regulations No. 20."

The file herein discloses that at 12:50 a.m., on Sunday, May 20, 1956, a bartender employed by the defendant served to each of four minors, aged 17, 17, 19 and 20 years, respectively, a mixed drink containing alcoholic beverages. ABC agents seized the drinks after the waitress had made service thereof and then confronted her with the violation. The waitress admitted making the service of the alcoholic beverages to the minors without questioning them as to their ages.

Defendant has no prior adjudicated record. The usual penalty heretofore imposed for a violation involving a seven-teen-year-old minor was a suspension of the license for fifteen days. Re Keelan, Bulletin 1095, Item 4. However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days. Re Increased Penalties, Bulletin 1095, Item 1. Since the violation in the instant case occurred after that announcement and considering the number of minors involved, I shall suspend defendant's license for twenty-five days. Cf. Re Tackroom Corporation, Bulletin 1118, Item 10. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 5th day of July, 1956,

ORDERED that Plenary Retail Consumption License C-3, issued for the 1956-57 licensing year by the Borough Council of the Borough of Englewood Cliffs to Ronald Enterprises, Inc., t/a New Rustic Cabin, Sylvan Boulevard, Englewood Cliffs, be and the same is hereby suspended for a period of twenty (20) days.

commencing at 2:00 a.m. July 12, 1956, and terminating at 2:00 a.m. August 1, 1956.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

EDWARD J. DWYER)
T/a DWYER'S ELBOW ROOM &)
BLACK SHEEP BAA)
450-452 Broad Street)
Newark 2, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-721, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Newark.)

Edmond J. Dwyer, Esq., Attorney for Defendant-licensee.
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 and suffered the sale, service and delivery of alcoholic beverages to three minors and permitted the consumption of such beverages by said minors in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

On May 5, 1956, at about 9:25 p.m., two ABC agents observed three apparent minors enter the licensed premises, take seats at the bar, and thereafter each ordered, was served with and consumed a total of three glasses of beer. Otto Hammer, a bartender, served such beer without requiring any of the minors to sign a written representation as to his age. After the service and partial consumption by the minors of their third glass of beer, the agents disclosed their identities and ascertained that the names of the minors are John M. --- (age 18), Michael J. --- (age 18) and Francis J --- (age 20). The agents obtained signed sworn statements from each of the minors confirming the service and consumption by them of beer as observed by the agents.

Defendant has no prior adjudicated record. The alleged mitigating circumstances urged on behalf of the licensee are in part not pertinent and in part not in accord with the facts in the file as reported by the ABC agents. Until recently, the usual penalty for sale to three minors eighteen years of age or over was fifteen days (Re Buratti, Bulletin 1097, Item 1). However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days. Since the violation occurred after that date, 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 18th day of June, 1956,

ORDERED that any renewal for the 1956-57 licensing year or transfer of Plenary Retail Consumption License C-721, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Edward J. Dwyer, t/a Dwyer's Elbow Room & Black Sheep Baa, 450-452 Broad Street, Newark, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. July 2, 1956, and terminating at 2:00 a.m. July 17, 1956.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
CIRCUS LOUNGE, INC.)
712 Broadway)
Newark 4, N. J.,)
Holder of Plenary Retail Consump-)
tion License C-380, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Newark.)

CONCLUSIONS
AND ORDER

Circus Lounge, Inc., Defendant-licensee, by Donald J. Cocuzza,
President.
William F. Wood, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On May 8, 1956, you possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises, alcoholic beverages in bottles which bore labels which did not truly describe their contents, viz.,

Two quart bottles labeled 'Calvert Reserve Blended Whiskey 86.8 Proof' and

One quart bottle labeled 'Seagram's Seven Crown Blended Whiskey 86.8 Proof';

in violation of Rule 27 of State Regulations No. 20."

The file discloses that on May 8, 1956, an ABC agent making a routine inspection of defendant's premises seized a number of opened bottles, the contents of some of which appeared to be low in proof. The report of the Division's chemist shows that the contents of the first two bottles mentioned above were much too high in solids, and that the contents of the third bottle were low in proof and acids and much too high in solids.

Defendant has no prior record. I shall suspend its license for the minimum period of twenty days for a case involving three bottles (Re Pawlus, Bulletin 1104, Item 7). Five days will be remitted for the plea herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 25th day of June, 1956,

ORDERED that any renewal for the 1956-57 licensing year or transfer of Plenary Retail Consumption License C-380, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Circus Lounge, Inc., for premises 712 Broadway, Newark, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. July 5, 1956, and terminating at 2:00 a.m. July 20, 1956.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - SPECIAL RULING RE EMPLOYMENT OF POLICE OFFICER ON PREMISES - UNDER CIRCUMSTANCES OF CASE, LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)
)
 DOROTHY MILLER)
 T/a BAMBOO ROOM)
 36 Broadway)
 Passaic, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
 tion License C-130, issued by the)
 Board of Commissioners of the City)
 of Passaic.)
 -----)

Dorothy Miller, Defendant-licensee, Pro se.
 Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge that on Sunday, May 6, 1956, she sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, at retail in its original container, for consumption off the licensed premises, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that at 1:55 a.m., on Sunday, May 6, 1956, two ABC agents observed the bartender sell a quantity of beer in original containers for off-premises consumption to a female patron. One of the agents ordered a 4/5 quart bottle of Seagram's Seven Crown whiskey from him and in response thereto the bartender went to the rear of the premises, obtained a brown paper bag, placed the bottle of whiskey in the bag, handed it to the agent and charged him \$5.50 therefor. (I might point out that the minimum consumer resale price for a bottle of whiskey such as that in question at the time was \$4.49.) The agents left the premises but returned immediately thereafter and identified themselves to the bartender. The latter admitted that he sold the whiskey to the agent and also admitted the sale of the beer to the female patron but refused to give a written statement to that effect.

During the course of the investigation, the bartender identified himself as Meyer Miller, the husband of the defendant, and stated that he was employed as a police officer by the City of Passaic.

Defendant has no prior adjudicated record. However, it appears that defendant and Ben Bloomfield, a partner, were

notified on November 17, 1955 by this Division that, as a result of an investigation by an ABC agent, it had come to the attention of the Director that Meyer Miller, husband of one of the licensees and a regular police officer, was employed as a bartender on the licensed premises. The employment of a police officer on licensed premises is contrary to a well-established ruling of this Division. Although no action was taken against the licensees, they were told to advise in writing that there would be no recurrence of this condition in the future. Pursuant thereto, a letter dated November 22, 1955 was received at this Division, wherein the defendant, on behalf of the partnership, agreed to refrain from employing or permitting her husband or any police officer to work on the licensed premises. In view of the disregard of the warning, it is hereby specially ruled that defendant shall not employ or permit her husband to work on the licensed premises during the time he remains a police officer. I might point out that a violation of such ruling will subject defendant's license to a substantial suspension or revocation.

Under the circumstances appearing in the instant case, I shall suspend defendant's license for a period of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 28th day of June, 1956,

ORDERED that any renewal for the 1956-57 licensing year or transfer of Plenary Retail Consumption License C-130, issued by the Board of Commissioners of the City of Passaic to Dorothy Miller, t/a Bamboo Room, 36 Broadway, Passaic, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. July 9, 1956, and terminating at 3:00 a.m. July 24, 1956; and it is further

ORDERED that Meyer Miller shall at no time while a police officer be employed by defendant or work in any capacity whatsoever on defendant's licensed premises.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - SALE IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

RAPHAEL SABIA)
 T/a RAY'S DINER)
 148 River Drive)
 Passaic, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-103 (for the 1955-56 and 1956-57 licensing years), issued by the Board of Commissioners of the City of Passaic.)

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

BY THE DIRECTOR:

Defendant has pleaded guilty to the following charges:

"1. On Saturday, June 23, 1956, between 3:00 A.M. and 3:38 A.M. you sold, served, delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and allowed the consumption of alcoholic beverages on your licensed premises; in violation of Section Four (a) of an Ordinance adopted by the Board of Commissioners of the City of Passaic on July 15, 1941.

"2. On Saturday, June 23, 1956, between 3:00 A.M. and 3:38 A.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of three separate orders of alcoholic beverages at retail in their original containers for consumption off your licensed premises; in violation of Rule 1 of State Regulations No. 38."

The file herein discloses that at about 3:00 a.m. Saturday, June 23, 1956, three ABC agents entered defendant's licensed "diner" and seated themselves in a booth from which they observed the counterman serve bottles of beer to patrons who purchased and consumed the beverages on the premises after the local closing hour. At 3:15 a.m. one of the agents asked the counterman for "a couple of bottles of beer" which were served to and partially consumed by the agents. After 3:30 a.m. another agent asked for "six cans of beer to go" and the counterman replied, "I'm not allowed to do it, but it's O.K. Do you have a car?" When the agent replied in the affirmative, he stated "Put it in your car." The agent left the premises with the merchandise and, returning immediately, he and the other agents identified themselves to the counterman who verbally admitted the aforesaid sales.

Defendant has no prior adjudicated record. The minimum penalty for a violation of Rule 1 of State Regulations No. 38 is a suspension of the license for a period of fifteen days (Re Garcia, Bulletin 1102, Item 12). The minimum penalty for selling after hours in violation of a local ordinance is a suspension of the license for a similar period (Re Martin, Bulletin 1068, Item 9). Where there are separate violations of the Regulations and the ordinance, a separate penalty for each violation

will be imposed (Re Trombley, Bulletin 784, Item 9). I shall suspend defendant's license for thirty days (Re Weber, Bulletin 1068, Item 10). Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 5th day of July, 1956,

ORDERED that Plenary Retail Consumption License C-103, issued for the 1956-57 licensing year by the Board of Commissioners of the City of Passaic to Raphael Sabia, t/a Ray's Diner, for premises 148 River Drive, Passaic, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. July 9, 1956, and terminating at 3:00 a.m. August 3, 1956.

WILLIAM HOWE DAVIS
Director.

6. STATE BEVERAGE DISTRIBUTOR'S LICENSE - OBJECTIONS TO TRANSFER HELD TO BE MERITORIOUS - APPLICATION FOR TRANSFER DENIED.

In the Matter of an Application)
by)

EDWARD C. WALKIEWICZ and)
JOSEPH R. WALKIEWICZ)
T/a WHITE EAGLE BOTTLING CO.)
177-181 South Street)
Newark, N. J.,)

CONCLUSIONS

for Transfer of State Beverage)
Distributor's License SBD-110)
held by)

ALBERT J. BAKUNAS)
T/a A. J. BAKUNAS BEVERAGES)
316 - 3rd Street)
Cliffside Park, N. J.)

-
- Leo J. Berg, Esq., Attorney for Applicants.
 - Braff, Litvak & Ertag, Esqs., by Jerome B. Litvak, Esq.,
Attorneys for Pacific Wine & Liquors, Objector.
 - Sidney Simandl, Esq., Attorney for Newark Tavern Association,
Objector.
 - Leonard Brass, Esq., Attorney for Essex County Retail Liquor
Stores Association, Objector.
 - Samuel Moskowitz, Esq., Attorney for New Jersey Retail Liquor
Stores Association, Objector.

BY THE DIRECTOR:

Written objections were filed with me by various objectors alleging, in substance, that the area to which applicants seek to transfer the license is adequately served by liquor licensees. Accordingly, a hearing was held pursuant to Rules 8 and 9 of State Regulations No. 6.

At the hearing Joseph R. Walkiewicz testified that, since 1950, he and his brother (Edward C. Walkiewicz) have conducted their business of selling carbonated beverages from the premises now sought to be licensed; that their routes cover Harrison, Irvington, Union, Hillside, Elizabeth and Newark, and that they have been requested by customers to sell them malt

alcoholic beverages. A petition containing the names of more than 380 customers requesting such service was presented at the hearing, and the witness testified that the applicants made deliveries of carbonated beverages to about sixty per cent. of these customers and that about forty per cent. of said customers purchased carbonated beverages at their place of business. One customer who resides in Irvington, two customers who reside in Newark, one customer who resides in Union, and another who resides in Colonia testified that it would suit their convenience to have applicants deliver beer as well as soda.

On behalf of objectors, Abraham H. Geltzeiler, president of Newark Tavern Association, testified that Newark is "saturated with all types of licenses." Louis Englander testified that various "D" licensees make delivery in that section of Newark. It was stipulated that five "D" licenses and at least four "SBD" licenses are located in that section of Newark. By letter dated May 28, 1956, Mayor Carlin, of the City of Newark, has requested that the transfer be denied because "there are more than sufficient outlets for sales at retail of alcoholic beverages in the City."

Applicants herein seek to transfer a license from Cliffside Park to Newark, which in my opinion is more than amply supplied with liquor outlets. I do not believe that public convenience and necessity require the transfer which would result in the establishment of what is essentially a new liquor business in Newark. The transfer of a license, whether State or municipal, to other premises is not a privilege inherent in a license. If good cause appears, such an application may be denied in the discretion of the issuing authority. Re Variety Beers and Soda Distributors, Inc., Bulletin 1000, Item 6; Re Cohen & Dickman, Bulletin 1077, Item 9; Re Bruno, Bulletin 1055, Item 9.

Under the circumstances appearing in this case, and for the reasons aforesaid, the application for the transfer of the license in question will be denied.

WILLIAM HOWE DAVIS
Director.

Dated: June 18, 1956.

7. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ECHO COCKTAIL LOUNGE, INC.
Route #22
Mountainside, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-8, issued by the Borough Council of the Borough of Mountainside.

Sidney Simandl, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant, by Herman Sturcke, its vice-president, pleaded non vult to a charge alleging that on Saturday night, April 21, 1956, it sold, served and delivered and permitted the sale, service and delivery of alcoholic beverages to two minors and permitted said minors to consume such beverages in and upon its licensed premises, in violation of Rule 1 of State Regulations No. 20.

Three ABC agents were seated at the bar in defendant's licensed premises at about 9:30 p.m. on the above date. Three young men, later identified as Robert ---, Albert --- and Clinton Mesker, an adult, were seated at the bar to the left of the agents. One of these young men was drinking Schlitz beer and the other two were drinking what appeared to be highballs. The agents then witnessed two rounds of drinks of Strogoff Vodka and 7-Up served to and consumed by each of these young men who then went to another part of the premises but returned to the bar within a short time. Albert --- and Clinton Mesker were again served with drinks of Vodka and 7-Up. Robert --- picked up Mesker's glass and consumed a portion of its contents. The agents identified themselves and ascertained that Robert was twenty years of age and that Albert was nineteen years of age. These two minors in signed sworn statements confirmed the service to and consumption by them of alcoholic beverages as observed by the agents, and stated that no one in the licensed premises required proof of their ages.

Defendant has no prior adjudicated record. The usual penalty heretofore imposed for sale of alcoholic beverages to a nineteen and a twenty-year-old minor was a suspension of the license for ten days. Re Casey and Jennings, Bulletin 1098, Item 8. However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days. Re Increased Penalties, Bulletin 1095, Item 1. Since the violation in the instant case occurred after that announcement, I shall suspend defendant's license for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 18th day of June, 1956,

ORDERED that any renewal for the 1956-57 licensing year or transfer of Plenary Retail Consumption License C-8, issued by the Borough Council of the Borough of Mountainside to Echo

Cocktail Lounge, Inc. for premises Route #22, Mountainside, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. July 2, 1956, and terminating at 2:00 a.m. July 12, 1956.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - SALE FOR OFF-PREMISES CONSUMPTION IN OTHER THAN ORIGINAL CONTAINER - LENGTHY PRIOR RECORD MORE THAN FIVE YEARS AGO - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

HENRY O. LOPEZ)
T/a CUBA'S NITE CLUB)
1147 Springwood Avenue)
Asbury Park, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-35, issued by the City Council of the City of Asbury Park.)

-----)
Anshelewitz & Barr, Esqs., by Max M. Barr, Esq., Attorneys for Defendant-licensee.

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

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that between 12:15 p.m. and 12:20 p.m. on Sunday, May 27, 1956, he sold for off-premises consumption a pint-bottle of Seagram's Seven Crown Blended Whiskey in other than the original container, in violation of R. S. 33:1-2.

On the above date and time an ABC agent purchased for off-premises consumption the aforesaid pint-bottle of whiskey in the licensed premises from Ruby Carter, who was tending bar. Before delivering the bottle to the agent, Ruby Carter cut the strip stamp thereon and broke the sealed cap. She verbally admitted such action after the agent and a fellow-agent disclosed their identities immediately after such sale.

Defendant and his predecessor in interest have a prior adjudicated record. Defendant was president and principal stockholder of Henry O. Lopez, Inc., the predecessor in the alcoholic beverage business now conducted by defendant. The corporate license was suspended by the local issuing authority for two days in 1937 for sales during prohibited hours, and again for fifteen days in 1942 for employing hostesses and permitting known prostitutes and immoral activities upon the licensed premises. Effective May 4, 1944, its license was suspended for fifteen days by the then Commissioner of the Division of Alcoholic Beverage Control after conviction of a charge alleging that it had allowed lottery tickets to be sold on its licensed premises (Re Henry O. Lopez, Inc., Bulletin 617, Item 7). These violations will not be considered in fixing penalty herein because they occurred more than ten years ago. Re Vecchione, Bulletin 1113, Item 2. Since defendant has been

the licensee, his license was suspended by the then Commissioner for ten days, effective May 10, 1948, for failure to disclose in his license application the foregoing suspensions (Re Lopez, Bulletin 803, Item 1). Effective January 29, 1951, his license was suspended for twenty-five days by the Director of the Division of Alcoholic Beverage Control for a "refill" violation (Re Lopez, Bulletin 897, Item 5). Although these dissimilar violations occurred more than five years ago and would ordinarily be disregarded (Re Weber, Bulletin 1115, Item 4), I shall, because of the lengthy prior record, suspend defendant's license for twenty days for the instant violation. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 13th day of June, 1956,

ORDERED that Plenary Retail Consumption License C-35, issued by the City Council of the City of Asbury Park to Henry O. Lopez, t/a Cuba's Nite Club, for premises 1147 Springwood Avenue, Asbury Park, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. June 18, 1956; and it is further

ORDERED that any renewal or transfer of such license shall be and remain under suspension until 3:00 a.m. July 3, 1956.

WILLIAM HOWE DAVIS
Director.

9. DISCIPLINARY PROCEEDINGS - ILLEGAL SITUATION CORRECTED - PRIOR SUSPENSION FOR BALANCE OF TERM LIFTED.

In the Matter of Disciplinary Proceedings against PALMERO'S BAR, INC. 118 Bank Street Newark 2, N. J., Holder of Plenary Retail Consumption License C-75, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

ON PETITION
O R D E R

Sidney Simandl, Esq. and Irving J. Zwillman, Esq., Attorneys for Petitioner.

BY THE DIRECTOR:

On May 23, 1956, I suspended defendant's license for the balance of its term, effective at 2:00 a.m. June 4, 1956, after defendant had pleaded non vult to charges alleging in effect that Angelo Palmero had an interest in said license. Leave was given to apply to me for an order lifting said suspension if the illegal situation was thereafter corrected; provided, however, that the suspension would not be lifted until the expiration of fifteen days from the effective date thereof. Re Palmero's Bar, Inc., Bulletin 1120, Item 4.

The petition filed herein sets forth that on June 4, 1956, Angelina Palmero assigned four of her eight shares of stock to Angelo Palmero and duly notified the Municipal Board of Alcoholic Beverage Control of the City of Newark of said change of stockholders. The petition further alleges that

said Board, after a hearing on June 19, 1956, approved Angelo Palmero as a stockholder of said corporation.

It thus appearing that the unlawful situation herein has been corrected and that the suspension has been in effect for more than fifteen days,

It is, on this 20th day of June, 1956,

ORDERED that the suspension heretofore imposed be lifted and that License C-75 be restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS
Director.

10. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - TESTIMONY OF CHEMIST EMPLOYED BY DIVISION AND TESTIMONY OF CHEMIST RETAINED BY DEFENDANT COMPARED - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against)

MARY SZKUTNIK)
T/a LINDEN LONG BAR)
11-A E. Price Street)
Linden, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-61, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden.)

Matthew Grayson, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to a charge alleging that she possessed on the 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 Regulations No. 20.

An ABC agent testified that while in defendant's licensed premises on December 9, 1955, he tested 43 bottles of alcoholic beverages and found the contents of a bottle of "Old Hickory Straight Bourbon Whisky 86 Proof" to be "above the proof stated on the label"; that he showed the licensee the results of the test of the questionable bottle and she said, "Well, it may have deteriorated. It's been on the back bar since Christmas"; that he then seized the bottle in question and turned it over to the Division chemist for analysis. Another agent, who was also present at the time, corroborated the testimony of his fellow-agent with the exception that he did not hear all the conversation between the agent and the defendant because he "took care of the paper work which includes checking the license number, the application, finding out who is in charge of the premises."

The Division chemist testified that he made an analysis of the contents of the bottle labeled "Old Hickory Straight Bourbon Whisky 86 Proof" and that the examination disclosed the whisky in said bottle to be 92 proof; that thereafter on March 28, 1956, he was present and observed a chemist employed by the defendant make

an analysis of the whisky in question "with distillation and hydrometer" and "he got a 91.8 proof"; furthermore, he was present on March 29, 1956 and again observed the defendant's chemist make another analysis of the whisky "by distillation and pycnometer" and this time the proof was "91.3". On cross-examination, the Division chemist, in response to a question asked by the attorney for the defendant whether proof of alcohol increases when a bottle of whiskey has been open for a period of two years, replied that in such a case, evaporation would tend to decrease the proof rather than increase it.

The defendant testified that she was in the licensed premises when the agent made the test of the bottle of bourbon in question and that although he showed her the hydrometer reading, she denied ever tampering with the contents of said bottle and further stated that she had no knowledge that anyone else had tampered with it. According to the testimony of defendant, three employees worked in the licensed premises throughout 1955. Defendant also testified that the bourbon had been purchased in 1954 and although she had not purchased any more of said brand since that time, she has in the past and presently does handle three other brands of 100 proof bourbon.

As part of the memorandum filed in this matter, defendant's attorney incorporated the Certificate of Analysis prepared by defendant's chemist. The chemist showed in said Certificate that "Apparent proof (undistilled - hydrometer) 91.1; Proof after distillation (hydrometer) 91.8; and Proof (actual, at 15.6° C - pycnometer) 91.30". The chemist's comment was "Analyses prove that the contents of this bottle are those having the characteristics of potable, aged straight whiskey, with an actual proof of more than 5 greater than that appearing on the label markings on the bottle". Thus, the tests of both the Division chemist and the defendant's chemist disclose no appreciable variation in the proof of the whisky, both conceding it to be at least 5 greater in proof than called for by the label on the bottle.

Although defendant contends that she did not tamper with the bottle and that she did not know of any other person doing so, there is no escape from the fact that the analyses made by both chemists disclosed the presence of a higher proof whisky in the bottle than its label indicated. Furthermore, the charge in the instant case is possession of an illicit alcoholic beverage at defendant's licensed premises and the testimony of the defendant that neither she nor her employees had tampered with the contents of the bottle constitutes no defense to the violation. Cedar Restaurant and Cafe Co. v. Hock, 135 N. J. L. 156.

Under the circumstances appearing in this case, I find defendant guilty of the charge preferred herein.

Defendant has no prior adjudicated record. I shall suspend her license for fifteen days, the minimum suspension for a violation of the kind in question. Cf. Re Pacifico, Bulletin 1088, Item 7.

Accordingly, it is, on this 25th day of June, 1956,

ORDERED that any renewal for the 1956-57 licensing year or transfer of Plenary Retail Consumption License C-61, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden to Mary Szkutnik, t/a Linden Long Bar, 11-A E. Price Street, Linden, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. July 2, 1956, and terminating at 2:00 a.m. July 17, 1956.

WILLIAM HOWE DAVIS
Director.

11. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

SAMUEL FELICE
T/a SAM FELICE'S TAVERN
803 West Side Avenue
Jersey City 6, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-456, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Samuel Felice, Defendant-licensee, Pro se.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to a charge alleging that he sold during prohibited hours an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that on Sunday, May 20, 1956, ABC agents visited the vicinity of defendant's licensed premises at about 12:55 a.m. One agent entered the premises and observed the licensee hand a bag to a patron, admonishing him to "Put it under your coat. I don't know who this guy is at the bar". The patron departed with the bag and, thereafter, was apprehended by the agents who seized the bag which contained a quart bottle of cold beer. Returning to the licensed premises with the patron, they identified themselves to the licensee, who readily admitted the aforesaid sale for off-premises consumption.

Defendant has no prior adjudicated record. I shall suspend his license for a minimum period of fifteen days and remit five days for the plea entered herein, leaving a net suspension of ten days. Re Cahill, Jr., Bulletin 1102, Item 3.

Accordingly, it is, on this 21st day of June, 1956,

ORDERED that any renewal for the 1956-57 licensing year or transfer of Plenary Retail Consumption License C-456, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Samuel Felice, t/a Sam Felice's Tavern, 803 West Side Avenue, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. July 9, 1956, and terminating at 2:00 a.m. July 19, 1956.

WILLIAM HOWE DAVIS
Director.

12. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

EARL H. GORDON)
n/s Cookstown-New Egypt Road)
North Hanover Township)
PO Cookstown, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Township Committee of the Township of North Hanover.)
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Earl H. Gordon, 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 and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20.

Acting upon information obtained from the New Jersey State Police, ABC agents obtained a sworn statement from Robert L. --- (age 20), wherein it appears that on May 23, 1956, at about 7:00 p.m., Robert and another minor entered defendant's licensed premises while two other minor companions remained outside in a motor vehicle belonging to one of such minors. Robert there purchased nine quart bottles of beer for which the clerk accepted payment of \$3.00. The clerk did not question either of the minors as to his age. Robert and his companion then left the premises, Robert carrying the beer to the car. ABC agents obtained sworn statements from the other three minors which corroborated Robert's account of the incident. The four minors, in a group, directed the ABC agents to defendant's licensed premises which they identified as the establishment where Robert had obtained the aforesaid beer.

Defendant has a prior adjudicated record. Effective May 7, 1951, his license was suspended for fifteen days for sale to a minor. Re Gordon, Bulletin 906, Item 8. The minimum penalty imposed for the sale of alcoholic beverages to a twenty-year-old minor is the suspension of the license for ten days. Re 236 Broad Avenue, Inc., Bulletin 1109, Item 7.

Considering the previous similar violation which occurred more than five years ago, I shall suspend defendant's license for fifteen days. Re Belisonzi et al., Bulletin 1100, Item 11. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 21st day of June, 1956,

ORDERED that any renewal for the 1956-57 licensing year or transfer of Plenary Retail Distribution License D-1, issued by the Township Committee of the Township of North Hanover to Earl H. Gordon, n/s Cookstown-New Egypt Road, North Hanover Township, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. July 9, 1956, and terminating at 9:00 a.m. July 19, 1956.

WILLIAM HOWE DAVIS
Director.

13. MINIMUM CONSUMER RESALE PRICE - NOTICE CONCERNING FILINGS
FOR MALT ALCOHOLIC BEVERAGES.

July 27, 1956

Chapter 110 of the Laws of 1956, Section 5(c), requires the Director of Alcoholic Beverage Control to make and promulgate rules and regulations with respect to publication and maintenance of minimum prices at which malt alcoholic beverages may be sold by licensees to consumers within recognized trading areas.

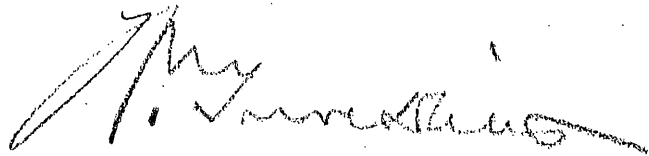
These rules and regulations will probably be promulgated in the very near future with a view to having the minimum consumer resale prices effective on October 1, 1956. The realization of this aim depends on the cooperation of the industry in supplying certain basic data required by the Division and in prompt filing of information and prices.

It is to be noted in advance that lead time for processing prices, printing and distribution requires that the filing dates for prices be no later than August 20, 1956. Accordingly, breweries, importers and owners of brands of malt alcoholic beverages are cautioned that they should immediately begin preparation and calculation of minimum prices to be filed. If filing is to be by an agent, representative, importer, distributor or anyone other than the brewer or owner of the brand, written delegation of authority to file prices must accompany the filing.

Price filings will be under brand names with separate prices for individual sizes and for cases in each type. Permissive discounts and deposit requirements must be stated.

PRIVATE AND EXCLUSIVE BRANDS

Pending final determination on the question whether prices are to be filed for private and exclusive brands of malt alcoholic beverages, private brands owned or controlled by one retailer and exclusive brands offered for sale or sold by its manufacturer or wholesaler exclusively to one New Jersey retailer must be registered with the Division. This is accomplished by the supplier or distributor filing the brand name and a copy of the label together with the name of the retailer who is the owner of the brand or to whom the brand has exclusively been assigned, together with the date of initial delivery.



William Howe Davis
Director.