

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

BULLETIN 1138

NOVEMBER 13, 1956.

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Passaic) - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.
2. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.
3. DISCIPLINARY PROCEEDINGS (Atlantic City) - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
4. DISCIPLINARY PROCEEDINGS (Sayreville) - SALES TO MINORS - PERMITTING ACT OF VIOLENCE ON LICENSED PREMISES - LICENSE SUSPENDED FOR 25 DAYS.
5. DISCIPLINARY PROCEEDINGS (Perth Amboy) - CHARGE ALLEGING SALES TO MINORS, DISMISSED.
6. DISCIPLINARY PROCEEDINGS (Clark Township) - CHARGE ALLEGING LEWDNESS AND IMMORAL ACTIVITIES (MAKING ARRANGEMENTS FOR THE RENTING OF ROOMS FOR ILLICIT SEXUAL INTERCOURSE) - DISMISSED.
7. DISCIPLINARY PROCEEDINGS (Metuchen) - EFFECTIVE DATES FIXED FOR SUSPENSION PREVIOUSLY IMPOSED AFTER TERMINATION OF PROCEEDINGS TO REVIEW.
8. DISCIPLINARY PROCEEDINGS (Atlantic City) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Gloucester City) - SALES TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Atlantic City) - SALES TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
11. DISQUALIFICATION REMOVAL PROCEEDINGS - FALSE ANSWER IN QUESTIONNAIRE - RELIEF WITHHELD UNTIL 60 DAYS AFTER FILING OF APPLICATION HEREIN.
12. 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 1138

NOVEMBER 13, 1956.

1. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN
MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD - LICENSE
SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

LOUIS FISHMAN)
110 Market Street)
Passaic, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distri-)
bution License D-5, issued by the)
Board of Commissioners of the)
City of Passaic.)
-----)

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

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging the sale
of an alcoholic beverage at a price below the established
minimum therefor, in violation of Rule 5 of State Regulations
No. 30.

The file herein discloses that on August 1, 1956, an
ABC agent entered defendant's licensed premises and ordered
from Louis Fishman (the licensee) a fifth of "Three Feathers."
Fishman put a bottle of the requested brand in a bag and placed
the package on the counter. "What do I owe you?", asked the
agent and, when quoted \$4.49, the current minimum resale price,
the agent said, "Are you kidding? I paid \$4.10 about a couple
of weeks ago. No, I don't want it", and started to leave.
Fishman asked "Did you buy the bottle here?" The agent replied
affirmatively and remarked that the only reason he patronized
defendant's place was to save "half a buck." Fishman then
accepted from the agent a marked \$5.00 bill and returned 90¢ in
change. The agent took the package and was accompanied to the
door by Fishman who, when he saw a recent patron loitering
near the premises, urged the agent not to leave. The agent,
however, called the patron who was in fact an ABC agent, and
both identified themselves to Fishman. When the marked money
was taken from the cash register, Fishman verbally admitted the
violation and pleaded with the agents to forget everything.

Defendant has a prior adjudicated record. Effective
October 6, 1952, and April 19, 1955, his license was suspended
for five and fifteen days, respectively, by this Division for
violations similar to the charge herein (Bulletin 945, Item 9
and Bulletin 1060, Item 6). The minimum penalty for a viola-
tion as charged is ten days (Re Bregman, Bulletin 1128, Item 12).
However, since the two similar violations occurred within a
period of five years, I shall suspend defendant's license for
forty days (cf. Re Woodlawn Bar and Grill, Inc., Bulletin 1060,
Item 2). Five days will be remitted for the plea entered herein,
leaving a net suspension of thirty-five days.

Accordingly, it is, on this 2nd day of October, 1956,

ORDERED that Plenary Retail Distribution License D-5,
issued by the Board of Commissioners of the City of Passaic to

Louis Fishman, for premises 110 Market Street, Passaic, be and the same is hereby suspended for thirty-five (35) days, commencing at 9:00 a.m. October 8, 1956, and terminating at 9:00 a.m. November 12, 1956.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

PETER J. D. MURPHY)
T/a MURPHY'S TAVERN)
102 Bright Street)
Jersey City 2, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-151, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Fox & Schackner, Esqs., by Edward F. Neagle, Jr., Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that (1) on July 6, 1956, he sold alcoholic beverages in their original containers during prohibited hours for off-premises consumption, in violation of Rule 1 of State Regulations No. 38; and (2) on the aforesaid date, he sold, served and delivered and permitted the sale, service and delivery of alcoholic beverages to a minor and permitted said minor to consume such beverages in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

On Friday, July 6, 1956 at about 10:10 p.m., three ABC agents entered the licensed premises, took seats at the bar, and observed that the tavern was occupied by ten patrons and one bartender. Thereafter, within a period of an hour, the bartender made seven sales of alcoholic beverages in their original containers to various patrons for off-premises consumption. During the same period, the agents also saw the bartender serve three glasses of beer to a young man who appeared to be about nineteen or twenty years of age. At about 11:15 p.m., shortly after the seventh sale for off-premises consumption, one of the agents asked the bartender for two quart bottles of Piel's beer for home consumption. The bartender thereupon placed two bottles of the requested beer in a paper bag, gave the package to the agent, and accepted 85¢ in payment thereof. The three agents, one of them in possession of the beer, then left the premises. Within a few minutes, they returned, identified themselves and questioned the bartender and the aforesaid minor. The minor, in the presence of the local police, identified himself as Melvin E. ---; stated that he was twenty years of age, born on December 31, 1935; that he arrived at the licensed premises that evening at about 7:30, had

consumed about ten glasses of beer, and that no one asked him his age. The bartender, identified as Anthony Wladarski, admitted the aforesaid illegal sale to the agent, did not deny the other seven unlawful sales, and admitted serving beer to the minor.

Defendant has a prior adjudicated record. Effective September 23, 1951, the local issuing authority suspended defendant's license for five days for a similar violation to that set forth in Charge (1) herein. The minimum suspension for an "hours" violation is fifteen days. Re Sabia, Bulletin 1125, Item 5. Since the prior similar violation occurred within a five-year period, the penalty will be doubled. Re Berger Company, Inc., Bulletin 1108, Item 9. The minimum penalty for a sale to a twenty-year-old minor is ten days. Re Salsberg and Friedenberg, Bulletin 1126, Item 6. I shall suspend defendant's license for a period of forty days on the charges herein. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 26th day of September, 1956,

ORDERED that Plenary Retail Consumption License C-151, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Peter J. D. Murphy, t/a Murphy's Tavern, 102 Bright Street, Jersey City, be and the same is hereby suspended for a period of thirty-five (35) days, commencing at 2:00 a.m. October 8, 1956, and terminating at 2:00 a.m. November 12, 1956.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against
DREXEL BAR, INC.
T/a DREXEL BAR & GRILL
326 North Massachusetts Avenue
Atlantic City, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-139, issued by the Board of Commissioners of the City of Atlantic City.

Paul J. Farley, Esq., Attorney for Defendant-licensee.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that (1) on July 27, 1956, it sold alcoholic beverages in their original containers during prohibited hours for off-premises consumption, in violation of Rule 1 of State Regulations No. 38; and (2) it hindered and delayed and caused the hindrance and delay of an investigation by ABC agents of its licensed premises in violation of R. S. 33:1-35.

The file herein discloses that on Friday, July 27, 1956 at about 10:15 p.m., two ABC agents entered the licensed premises, took seats at the bar and observed that the premises were occupied by ten patrons and a bartender. Thereafter, within a period of about thirty minutes, the agents saw the bartender make two individual sales of alcoholic beverages in their original containers for off-premises consumption. At about 11:15 p.m., one of the agents asked the bartender for six cans of beer "to take out". The bartender thereupon placed a six-can carry pack of Schmidt's beer in a brown paper bag, handed the same to the agent and in payment thereof helped himself to \$1.20 previously put on the bar by one of the agents. The two agents, one of them in possession of the beer, then left the premises and returned immediately. The agents identified themselves to Vincent DeGiacinto, who stated that he was vice-president of the corporate-licensee. The agents then requested and the bartender produced the license application for inspection. In order to facilitate their work, the agents deposited the aforesaid package of beer on a stool. The bartender thereupon reached under the bar, snatched the package of beer, tore the brown paper therefrom and returned the beer to the cooler. In reply to the agents' demand to return the beer, the bartender defiantly stood with arms outstretched in front of the cooler. Despite the agents' warning that he was hindering their investigation, the bartender continued to guard the cooler. The local police were summoned. Shortly thereafter, Anthony Venofro, Jr., president of the corporate-licensee, appeared. He was informed by the agents of what had transpired but completely failed and refused to aid the investigators.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days on Charge (1), Re Filerino, Bulletin 1130, Item 4, and for fifteen days on Charge (2), cf. Re Kramer, Bulletin 1067, Item 1, 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 4th day of October, 1956,

ORDERED that Plenary Retail Consumption License C-139, issued by the Board of Commissioners of the City of Atlantic City to Drexel Bar, Inc., t/a Drexel Bar & Grill, 326 North Massachusetts Avenue, Atlantic City, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 7:00 a.m., October 15, 1956, and terminating at 7:00 a.m. November 9, 1956.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PERMITTING ACT OF VIOLENCE ON LICENSED PREMISES - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against)

ROSEWOOD INN, INC.)
Highway 4 & 9)
Sayreville, RFD #1)
South Amboy, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-7 (for the 1955-56 and 1956-57 licensing years), issued by the Mayor and Council of the Borough of Sayreville.)

-----)
Saul C. Schutzman, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"1. 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., Edward ---, age 18 on December 10, 1955 and divers days prior thereto and Daniel F. ---, age 19 on December 9, 1955 and on divers days prior thereto, and allowed, permitted and suffered the consumption of alcoholic beverages in and upon your licensed premises by said persons on the respective dates; in violation of Rule 1 of State Regulations No. 20."

Defendant pleaded not guilty to the following charge:

"2. On December 10, 1955, you allowed, permitted and suffered an act of violence and a disturbance in and upon your licensed premises; in violation of Rule 5 of State Regulations No. 20."

As to Charge 1: On January 12, 1956, Edward --- gave to ABC agents a sworn statement wherein he said that he was born on January 1, 1937; that he entered defendant's licensed premises about 1:50 a.m. on December 10, 1955, and was served and consumed three glasses of beer; that he had visited defendant's premises on numerous occasions during the prior year and had been served alcoholic beverages on those occasions. On January 23, 1956, Daniel --- gave to ABC agents a sworn statement wherein he said that he was born on February 8, 1936; that he entered defendant's licensed premises about 7:00 p.m. on December 9, 1955, and was served and consumed two glasses of beer; that he had previously visited defendant's premises quite a few times and had been served beer on those visits. Both minors denied that anyone in defendant's premises had ever inquired as to their respective ages.

At the hearing held as to Charge 2, the evidence establishes that at about 2:00 a.m. December 10, 1955, a fight between Robert Eppinger and Joseph Carney started in defendant's premises and that Earl Dorman and Leroy --- (a brother of Edward ---) became engaged in the fight. It was stated by the prosecutor

that Charge 2 is not based upon the fight, which appeared to be a "flare-up" without prior warning, but solely upon the allegation that, at or about the same time, Abraham Sabin (husband of Ann Sabin and father of Gerald Sabin) fired a shot from a gun and the bullet struck Edward --- in the hip.

The version of the shooting as given by the Division's witnesses and defendant's witnesses differs in many details. Edward --- testified that, after the fight started, he took his brother out to the parking lot and returned to the premises; that Ann Sabin and Gerald Sabin were tending bar; that he heard Ann tell Jerry to "go upstairs and get his father;" that, as he started to go outside again and, as he reached the outer door, he saw Abraham Sabin and Jerry Sabin on a stairway leading to the upper floor of the building; that he "saw a flash of light and heard a bang" and fell to the floor; that he had been shot in the hip. Robert Eppinger testified that he heard one shot and that Abraham Sabin had a gun. Earl Dorman testified that he tried to break up the fight and got into an argument; that he went outside and, when he tried to re-enter, Abraham Sabin was standing with a gun and "told me to get out." Joseph Carney testified that he was fighting with Eppinger and that he, while on the floor, observed Abraham Sabin, who was standing by the cigarette machine, fire the gun.

On behalf of defendant, Ann Sabin testified that, when the fight started, she screamed and told her son Gerald to call the police; that her husband came running down with a gun in his hand, stood by the outer door and told them to get out; that "as they ran out they brushed against him and the gun went off." Gerald Sabin testified that, when his mother screamed, he went to the telephone booth and called the police; that, when he came out of the booth, he saw his father at the front door with a revolver pointing downward as "they were running out", "passing in front of him;" that he heard a shot. Abraham Sabin testified that he was in bed upstairs when he heard his wife screaming; that he took a pistol from his drawer and ran downstairs in his bare feet; that, as he walked down the staircase, chairs were flying and glass breaking; that he was standing right by the front door with the pistol pointed down when one of them "rushed through me and accidently the pistol went off."

The attorney for defendant contends that Abraham Sabin is not a stockholder, director or officer of defendant corporation or an employee of said corporation and, hence, that the situation herein is similar to the situation which would be presented for determination if a total stranger walked into the premises and fired a shot without warning. However, I cannot agree with this contention. It is true that Abraham Sabin is not a stockholder, director or officer of the corporation. However, he admits that between December 1954 and September 1955 he was employed on the licensed premises of defendant corporation (of which his wife and son are stockholders) while his wife was incapacitated. He, his wife and his son testified that he has not been employed on the licensed premises since September 1955. On the other hand, Edward --- testified that he saw Abraham Sabin tending bar a month or so before December 10, 1955. Daniel --- testified that Abraham Sabin served him drinks a couple of days before December 9, 1955, and Joseph Carney testified that between September 1955 and December 10, 1955, he saw Abraham Sabin tending bar and cleaning up quite a few times. Abraham Sabin testified that he lives with his family on the floor above the licensed premises, and that his sole business is that of a speculator in real estate, operating from his home residence. The evidence satisfies me that Abraham Sabin was an employee of defendant on December 10,

1955, irrespective of the question as to whether he was then being compensated for his services. Kravis v. Hock, 137 N.J.L. 252 (Sup. Ct. 1948); Re Gutman, Bulletin 936, Item 4, aff'd In Re Gutman, 21 N. J. Super. 579 (App. Div. 1952). Defendant is responsible for the acts of its agents and employees in the conduct of its licensed business. Rule 31 of State Regulations No. 20. I do not believe that any patron collided with Abraham Sabin. I conclude he became excited and fired the gun. As was said in Re Teevan and Lynch, Bulletin 676, Item 11:

"*** There is no justification, short of the acute need for emergent self-defense in the face of unexpected and unprovoked attack, for a licensee to resort to violence and, even then, the use of force should be restricted to that necessary to permit a strategic retreat for the purpose of calling the police.***"

Hence I find defendant guilty as to Charge 2. Re Esposito, Inc., Bulletin 461, Item 5; Cesar v. Trenton, Bulletin 957, Item 1; Roth v. Newark, Bulletin 993, Item 5.

Defendant has no prior record. I shall suspend its license for ten days on Charge 1 (the minimum penalty for sale, prior to January 16, 1956, to minors eighteen and nineteen years of age (Re Red Robin Cafe, Bulletin 1048, Item 9)) and for an additional period of fifteen days on Charge 2 (Re Esposito, Inc., supra), making a total suspension of twenty-five days. There will be no remission because of the plea entered as to Charge 1 because a full and complete hearing was required as to Charge 2.

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

Accordingly, it is, on this 24th day of September, 1956,

ORDERED that Plenary Retail Consumption License C-7 (for the 1956-57 licensing year), issued by the Mayor and Council of the Borough of Sayreville to Rosewood Inn, Inc., for premises on Highway 4 & 9, Sayreville, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. October 1, 1956, and terminating at 3:00 a.m. October 26, 1956.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALES TO MINORS, DISMISSED.

In the Matter of Disciplinary Proceedings against)

MICHAEL SUDZINA & GORDON J. PINGICER)
T/a BOULEVARD INN)
751 Convery Boulevard)
Perth Amboy, N. J.,)

CONCLUSIONS
AND ORDER

-----)
Holders of Plenary Retail Consumption License C-10 for the 1955-56 and 1956-57 licensing periods, issued by the Board of Commissioners of the City of Perth Amboy.)

Melko, Goldsmith & Pollack, Esqs., by George B. Pollack, Esq., Attorneys for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to a charge alleging that on Friday night, April 20, 1956, they sold, served and delivered

alcoholic beverages to a minor and permitted the consumption of an alcoholic beverage by said minor in and upon their licensed premises, in violation of Rule 1 of State Regulations No. 20.

At the hearing herein John --- testified that he was born May 16, 1937 and that on the night of April 20, 1956 he and three companions drove to defendants' licensed premises wherein he alone entered; that he purchased therein a glass of beer from "Steve", the bartender, and six cases of beer from Gordon J. Pingicer, one of the licensees, and a quart of whiskey from either "Steve" or Pingicer; that he consumed the glass of beer on the premises, carried the whiskey to the car and placed it on the front seat, and (assisted by Pingicer) put the six cases of beer in the trunk compartment of the car. He further testified that he had been in defendants' tavern on several previous occasions and that at no time did "Steve" or Pingicer require any written proof of his age. On cross-examination John testified that he is 6' 2" tall and weighs 175 pounds and that on April 20, 1956 "I might have weighed a little more"; that he didn't remember being in the licensed premises on December 23, 1955; and, when asked if he recognized a signature appearing on a printed statement shown to him, he replied "It's mine; it looks like it." At the request of defendants' counsel, John then wrote his signature on a blank piece of paper. The statement, paper, and a photograph of John taken the day before the hearing were later received in evidence.

Daniel ---, one of John's companions, corroborated John's testimony as to the material facts and an ABC agent testified that Daniel directed him to defendants' licensed premises and pointed it out as the place where John obtained the alcoholic beverages.

Six police officers testified that in their presence John identified "Steve" and Pingicer as the persons from whom he purchased said beverages and that Pingicer admitted his and "Steve's" participation in the alleged violation.

Gordon J. Pingicer, testifying in defendants' behalf, admitted the sale and service of the glass of beer and the six cases of beer but denied the sale of the quart of whiskey. He testified that on December 23, 1955 John came into his tavern and ordered a glass of beer; that John spoke in a low-pitched voice and was a big man, weighing about 200 pounds; that "I figured he looked to me at least twenty-five"; that "I asked him whether he was twenty-one" and he said "Yes"; that because of the "youngness of his face * * * I requested him to sign the statement", which he did in the presence of the witness; that John was served alcoholic beverages three or four times after December 23, 1955; that he described John to his partner and his brother Steve and told them "It will be all right to serve him because he signed the statement" and that the sales and service were made to John on and after December 23, including the date alleged in the charge, in reliance upon the representation made in writing that he was twenty-one years of age.

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

I have carefully considered the testimony herein and have viewed the exhibits received in evidence and I find that on December 23, 1955 John, the minor, falsely represented in writing that he was born on May 16, 1934 and that he was twenty-one years of age; that the statement to which he subscribed his name was supplied by defendants and conforms in all respects to the type recommended by the late Commissioner Burnett in

they, nevertheless, declined to show the rooms or accept the rent unless and until the agents produced the women; that after the agents identified themselves both defendants orally admitted they had agreed to rent rooms to the agents for the purpose of illicit sexual intercourse but purported to claim they had no intent to do so and that their agreement to rent the rooms was "just a course of conversation".

The testimony of the defendants can be summarized as follows: The licensees admit they have rooms in their licensed building available for rent; that arrangements were entered into with the agents for rental of rooms to them at \$3.00 per room and that the agents discussed "going out" with women not their wives. They deny, however, that they participated in any such conversation with the agents and that when the agents were talking in that vein, they either paid no attention or walked away. They also claim they never had any intention of renting rooms to the agents for any immoral purpose and, in support of that claim, testified that when the agents requested permission to use their phone to call the women to come to the premises they falsely stated they had no phone.

In the Hearer's Report, dated August 15, 1956, it was recommended that the charge be dismissed. Pursuant to Rule 6 of State Regulations No. 16, a Prosecutor for the Division on August 23, 1956 filed exception to the Hearer's Report to dismiss the charge and urged that the licensees be found guilty and on August 27, 1956 the licensees, pro se, filed an answering argument urging that the Hearer's recommendation dismissing the charge be adopted. While the Hearer, in effect, came to a factual finding that the available evidence established that there was a making of arrangements for the renting of rooms and the offering to rent rooms for the purpose of illicit sexual intercourse alleged in the charge nevertheless recommended the dismissal and expressed the opinion that the applicable rule "should not be construed to encompass a violation such as charged when it is based upon mere conversation". In support of that conclusion the Hearer asserts: "In the reported cases involving the renting of rooms on licensed premises for immoral purposes, proof of an overt act, such as acceptance of room rent, signing of the register or escorting agents to room, coupled with conversation participated in by a licensee or her agent respecting illicit activities, was deemed essential to establish a prima facie case."

While I agree with the Hearer's recommendation that the charge herein be dismissed, I have reached this result for completely different reasons and upon different conclusions. The Hearer, in his report, stated that he was "satisfied that the licensees were engaged in the conversations testified to by the agents" and, in effect, found that the arrangements alleged in the charge had been made but adopted the view "that Rule 5 of State Regulations No. 20 should not be construed to encompass a violation such as charged herein when it is based upon mere conversations" unaccompanied by "overt act, such as acceptance of room rent, signing the register, or escorting agents to rooms".

I completely disagree with the finding of fact and the view expressed by the Hearer as hereinabove outlined. The Hearer's Report, if adopted, would allow significant inceptive steps toward such activity to be taken on licensed premises with impunity. The primary intent of the rule in question is to suppress the inception of any immoral activity. In re Schneider

(Super. Ct., App. Div.), 12 N. J. Supr. 449, affirming Re Schneider, Bulletin 892, Item 3. See also Re Hartman, Bulletin 904, Item 2; Re Larsen, Bulletin 919, Item 12; and Re Favareille, Bulletin 986, Item 3. The rule of the criminal law of conspiracy, which requires some action in addition to and in furtherance of the agreement or conspiracy, should not be injected into the administrative application of the regulations of this Division. It has no place in the law governing disciplinary proceedings, which are civil in nature. See Kravis v. Hock, 137 N.J.L. 252, page 254.

I have no doubt that the things testified to by the agents occurred in manner and form as related in their testimony, all of which point strongly toward guilt. However, after carefully considering all of the evidence including, among other things, the testimony of the licensees in which they vigorously denied any intention to rent rooms for immoral purposes and the surrounding facts and circumstances, I cannot find that the arrangements were in fact made. This conclusion has been reached not merely because of the licensees' vigorous denials hereinabove referred to but upon a careful consideration of the entire record which included other facts and circumstances indicating that, while some progress had been made toward making the alleged arrangements, such arrangements had not yet been made.

This case has presented a very close factual situation. Because I am not able to find defendants guilty by the requisite preponderance of the evidence, I shall dismiss the charge. However, I reject the theory that the accepting of money as room rent, the signing of a register, or the escorting of the agents to the rooms is a prerequisite to a finding of guilt on a charge alleging the making of arrangements for the renting of rooms or the offering to rent rooms for the purpose of illicit sexual activity.

Accordingly, it is, on this 26th day of September, 1956,

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

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATES FIXED FOR SUSPENSION PREVIOUSLY IMPOSED AFTER TERMINATION OF PROCEEDINGS TO REVIEW.

In the Matter of Disciplinary)
Proceedings against)
METUCHEN LIQUORS, INC.)
333-335 Lake Avenue)
Metuchen, N. J.,)
Holder of Plenary Retail Distri-)
bution License D-5, issued by the)
Mayor and Council of the Borough)
of Metuchen.)
-----))

ORDER
REIMPOSING SUSPENSION

BY THE DIRECTOR:

On May 28, 1956, the defendant's license was suspended for ten days. See Bulletin 1121, Item 9. Pending the defendant's appeal to the Superior Court, Appellate Division, the suspension was stayed by the court. The defendant has discontinued the appeal and the suspension may now be reimposed.

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

ORDERED that the suspension of ten (10) days heretofore imposed against Plenary Retail Distribution License D-5, issued by the Mayor and Council of the Borough of Metuchen to Metuchen Liquors, Inc., for premises 333-335 Lake Avenue, Metuchen, be and the same is hereby reimposed, commencing at 9:00 a.m. October 8, 1956, and terminating at 9:00 a.m. October 18, 1956.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
SAMUEL & MOLLIE KIPNESS
T/a CHARLIE'S LIQUOR STORE & BAR
1223-25 Arctic Avenue
Atlantic City, N. J.,
Holders of Plenary Retail Consumption License C-76, issued by the Board of Commissioners of the City of Atlantic City.

CONCLUSIONS
AND ORDER

Samuel & Mollie Kipness, Defendant-licensees, Pro se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they possessed on their licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe the contents thereof, in violation of Rule 27 of State Regulations No. 20.

The file herein discloses that on July 24, 1956, an ABC agent, while testing and gauging the licensees' open bottles of alcoholic beverages, seized a number of such bottles because their contents appeared low in proof and submitted them to the Division's chemist for analysis. The chemist's report shows that, when compared with a sample of the genuine product of the labeled brand, the contents of one of the bottles labeled "Wilson That's All Blended Whiskey 86 Proof" is 12 proof short, solids and acids low.

Defendants have no prior adjudicated record. I shall suspend defendants' license for a period of fifteen days, the minimum suspension for a violation of the kind in question. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Pacifico, Bulletin 1088, Item 7.

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

ORDERED that Plenary Retail Consumption License C-76, issued by the Board of Commissioners of the City of Atlantic City to Samuel and Mollie Kipness, t/a Charlie's Liquor Store & Bar, 1223-25 Arctic Avenue, Atlantic City, be and the same is hereby suspended for a period of ten (10) days, commencing at 7:00 a.m. September 25, 1956, and terminating at 7:00 a.m. October 5, 1956.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary)
Proceedings against)

TADENSY LASKOWSKI)
T/a JERSEY TAVERN)
549 South Broadway)
Gloucester City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-24, issued by the)
Mayor and Common Council of the)
City of Gloucester City.)

Tadensy Laskowski, 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 two 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.

The file herein discloses that on Friday night, August 31, 1956, ABC agents visited defendant's licensed premises wherein they observed two apparent minors seated at the bar, each consuming an orange-colored drink. The agents identified themselves and obtained signed sworn statements from Peter ---, age 17, and Joseph ---, age 20, in which each states that he ordered and consumed two "screwdrivers" (vodka and orange soda) which were served by a barmaid who made no inquiry as to his age. The barmaid admitted the aforesaid violation.

Defendant has no prior adjudicated record. The minimum penalty prior to January 16, 1946 for an unaggravated sale of alcoholic beverages to a seventeen and a twenty-year-old minor was fifteen days. Re Tienken, Bulletin 1051, Item 7. However, in accordance with my announcement on that date, the penalty will be increased by five days. Re Increased Penalties, Bulletin 1095, Item 1. I shall suspend defendant's license for a period of twenty days and remit five days for the plea entered herein, leaving a net suspension of fifteen days.

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

ORDERED that Plenary Retail Consumption License C-24, issued by the Mayor and Common Council of the City of Gloucester City to Tadensy Laskowski, t/a Jersey Tavern, 549 South Broadway, Gloucester City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. September 25, 1956, and terminating at 2:00 a.m. October 10, 1956.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against)	
)	
JACK URETSKY)	
T/a JUNIOR'S BAR & LIQUOR STORE)	CONCLUSIONS
701 Baltic Avenue)	AND ORDER
Atlantic City, N. J.,)	
Holder of Plenary Retail Consumption License C-145, issued by the Board of Commissioners of the City of Atlantic City.)	
-----)	
Edward I. Feinberg, Esq., Attorney for Defendant-licensee.)	
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.)	

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on June 30, 1956, he sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a minor, in violation of Rule 1 of State Regulations No. 20.

Acting upon information obtained from the Brigantine Police Department that on June 30, 1956, officers thereof discovered four quart bottles of beer in a motor vehicle wherein there were five minor passengers, ABC agents obtained signed sworn statements from three of these minors. It appears from such statements that Alfred --- (age 17) purchased a case of quart bottles of beer on June 30th at about 9:00 p.m. at the licensed premises from the licensee. When these minors, accompanied by ABC agents, identified the premises, and Alfred identified the licensee as the person who sold him the beer, the licensee verbally agreed that such was the fact, but remarked that Alfred was so big that he never thought he was a minor.

Defendant has no prior adjudicated record of conviction for a similar violation, or conviction for a dissimilar violation within the last five years. The minimum suspension imposed for an unaggravated sale of alcoholic beverages to a seventeen-year-old minor after January 16, 1956 is twenty days, and I shall suspend defendant's license for that period. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days. Re Alexander, Bulletin 1112, Item 10.

Accordingly, it is, on this 20th day of September, 1956,

ORDERED that Plenary Retail Consumption License C-145, issued by the Board of Commissioners of the City of Atlantic City to Jack Uretsky, t/a Junior's Bar & Liquor Store, 701 Baltic Avenue, Atlantic City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 7:00 a.m. October 1, 1956 and terminating at 7:00 a.m. October 16, 1956.

WILLIAM HOWE DAVIS
Director.

11. DISQUALIFICATION REMOVAL PROCEEDINGS - FALSE ANSWER IN QUESTIONNAIRE - RELIEF WITHHELD UNTIL 60 DAYS AFTER FILING OF APPLICATION HEREIN.

In the Matter of an Application)
to Remove Disqualification)
because of a Conviction, Pursuant)
to R. S. 33:1-31.2.)

CONCLUSIONS
AND ORDER

Case No. 1308.
-----)

BY THE DIRECTOR:

Applicant's fingerprint returns show that on March 9, 1932, following a conviction of atrocious assault and battery, he was sentenced in a County Court to serve six months in the Essex County Penitentiary; that on November 23, 1932, subsequent to a conviction on a charge of breaking, entering, larceny and receiving, he was sentenced in a County Court to serve from one and one-half to two years in the New Jersey State Prison; that on June 4, 1934, he was sentenced in a police court to serve two months on two charges of assault and battery; that on June 17, 1940, he was sentenced in a police court to serve one year on a disorderly person's charge; that on November 5, 1945, he was sentenced in a Federal Court to serve three months on a charge of harboring and concealing. In addition to the above convictions, applicant, subsequent to January 13, 1924, has been arrested on numerous charges resulting in small fines, short terms in jail, suspended sentences and dismissals of charges.

Without considering his other convictions, it is clear that the crime of which he was convicted in November 1932 involved moral turpitude and, hence, applicant is presently disqualified from being employed in any capacity by the holder of a liquor license (Re Case No. 1232, Bulletin 1077, Item 10).

At the hearing held herein on September 12, 1956, applicant testified that he is married, lives with his wife and two children; that during the war he served as a merchant seaman from 1943 to 1946; that he is and has been employed as a truck driver for the past ten years, nine of which were with two companies which did not transport alcoholic beverages; that he recently lost a job because his employer was licensed to transport liquor; that his present employer does not have such a license; that he is seeking the removal of his disqualification to be free to accept employment by the holder of a transportation license, and that ever since his last conviction aforesaid he has not been convicted of any crime nor has he had any conflict with the law.

The Police Department of the municipality wherein applicant resides reports that there are no complaints or investigations presently pending against the applicant.

The applicant produced three neighbors as character witnesses (a retired chauffeur, a saleslady and a housewife) who testified that they have known the applicant for ten years; that he now bears a good reputation in the community in which he resides; that he is a law-abiding citizen; that they have had numerous opportunities to observe applicant and are of the opinion that it would not be against the public interest if he became engaged in the alcoholic beverage industry.

The records of this Division disclose that, in reply to applicant's request for a ruling on his eligibility to be employed by the holder of a liquor license, he was advised by letter dated March 15, 1946, that he was ineligible to apply for removal of his disqualification until after the expiration of five years from his conviction in 1945. Thereafter, although disqualified, in November 1955 he accepted employment as a truck driver with a transportation license and, while so employed, on December 1, 1955, filed a questionnaire with this Division in which he denied that he had ever been convicted of any crime.

When the applicant was interrogated as to these matters he stated that he was of the opinion that, since the aforesaid five years had elapsed, his disqualification was automatically removed and his convictions, as far as the alcoholic beverage laws were concerned, no longer operated against him.

I will give the applicant the benefit of the doubt by concluding that he did not intentionally overlook the legal requirement to file a formal petition before any action could be taken on his disqualification. I, however, cannot ignore his denial under oath that he had not been convicted of any crime.

Considering all of the aforesaid facts and circumstances, I shall grant his application but shall withhold relief until sixty days after August 28, 1956 (the date upon which he filed his application herein).

Accordingly, it is, on this 2nd day of October, 1956,

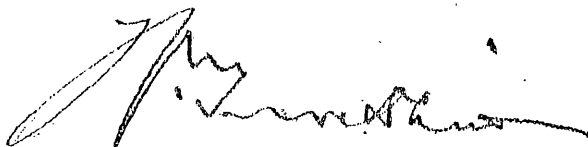
ORDERED that applicant's statutory disqualification because of the convictions described herein, be and the same is hereby removed in accordance with the provisions of R. S. 33:1-31.2, effective October 27, 1956.

WILLIAM HOWE DAVIS
Director.

12. STATE LICENSES - NEW APPLICATION FILED.

William C. Roth
131 Union Turnpike
Wharton, N. J.

Application filed November 5, 1956 for person-to-person, place-to-place transfer of State Beverage Distributor's License SBD-110, from Albert J. Bakunas, t/a Bakunas Beverage, 316 3rd Street, Cliffside Park, N. J.



William Howe Davis
Director.