

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

April 25, 1961

BULLETIN 1386

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

April 25, 1961

BULLETIN 1386

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

In the Matter of Disciplinary)
Proceedings against)

GUSTAV SUSSLIN)
225-229 Lafayette St. & rear)
212-220 Franklin Street)
Paterson, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-29, issued by the Board of)
Alcoholic Beverage Control for the)
City of Paterson.)

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On Sunday, February 12, 1961, at about 1:55 P.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., a 4/5 quart bottle of Vincove Port California Wine, at retail, in its original container for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverage in its original container from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

At about 1:55 p.m. on the above mentioned date two ABC agents observed a man departing from the licensed premises by way of the rear door which leads into an adjacent parking lot. The man was carrying a brown paper bag which appeared to contain a bottle. The agents identified themselves and the man admitted that the bag contained a 4/5 quart of Vincove Port California Wine which he purchased from the licensee several minutes before for seventy-five cents. The agents, accompanied by the man, thereupon entered the licensed premises and the licensee orally admitted the sale but refused to sign a statement, saying "I guess the best thing to do at this time is to consult my attorney."

Defendant has a prior adjudicated record. Effective May 12, 1941, his license was suspended by this Division for ten days for obtaining alcoholic beverages from an unauthorized source and for possessing and transporting such illicit beverages into the State. Bulletin 458, Item 2. However, since this was a dissimilar violation which occurred more than five years from the date of the violation considered herein, it will not be taken into consideration in fixing the penalty. I shall suspend defendant's license for the minimum period of fifteen days. Re Clark, Bulletin 1312, Item 11. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 14th day of March 1961,

ORDERED that Plenary Retail Consumption License C-29, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Gustav Susslin, for premises 225-229 Lafayette St. & rear 212-220 Franklin Street, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3 a.m. Monday, March 20, 1961, and terminating at 3 a.m. Thursday, March 30, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

PIERCE LIQUOR STORES, INC.)
t/a SHORE GRILL)
429-33 Cookman Avenue)
Asbury Park, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-1, issued by the City Council of the City of Asbury Park.)

George S. Skokos, 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 the following charges:

- "1. On November 27, 1960, you allowed, permitted and suffered gambling, viz., the making and accepting of bets in a lottery designated as the 'Numerology Bango-Club' and more commonly known as a 'numbers game', in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.
- "2. On November 27, 1960, you allowed, permitted and suffered tickets and participation rights in a lottery designated as the 'Numerology Bango-Club' and more commonly known as a 'numbers game', to be sold and offered for sale, in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

On November 27, 1960, an ABC agent purchased three lottery tickets from James J. Jennings who was tending bar at defendant's licensed premises. Thereafter the agent signaled to Captain Thomas S. Smith of the local Police Department who had accompanied him to defendant's licensed premises but had waited outside. The bartender was then ordered to empty his pockets and included on his person, in addition to the three one-dollar bills (the serial numbers which had been previously recorded) given by the agent in payment for the tickets, were thirty-one stubs for lottery tickets sold, five lottery tickets which he had purchased and five one-dollar bills.

Henry Brauweiler (president of defendant corporate-licensee) denied any knowledge that the bartender engaged in gambling practices.

Defendant has a prior adjudicated record. Effective September 16, 1940, its license was suspended for three days for a fair trade violation. Bulletin 422, Item 13. Because said violation is

dissimilar in character and occurred more than five years ago, it will not be considered in fixing the penalty herein. The minimum suspension for a violation as that now under consideration, where the licensee or any of his employees are involved, is twenty-five days. Re Kosakowski, Bulletin 1369, Item 7.

Under the circumstances, I shall suspend defendant's license for twenty-five days, less five days for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 14th day of March, 1961,

ORDERED that Plenary Retail Consumption License C-1, issued by the City Council of the City of Asbury Park to Pierce Liquor Stores, Inc., t/a Shore Grill, for premises 429-33 Cookman Avenue, Asbury Park, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m., Tuesday, March 21, 1961, and terminating at 3:00 a.m., Monday, April 10, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

3. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - ILLICIT ALCOHOLIC BEVERAGES ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO INNOCENT OWNER.

In the Matter of the Seizure on)	Case No. 10,477
December 11, 1960 of a quantity)	
of alcohol and a Chevrolet sedan)	ON HEARING
on the New Jersey Turnpike, at)	CONCLUSIONS
the 41 Mile Post, in the Township of)	AND ORDER
Mount Laurel, County of Burlington)	
and State of New Jersey.)	

Mary Price, Pro Se.

I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter came on for a hearing pursuant to R.S. 33:1-66 and State Regulation No. 28 to determine whether 120 - two-quart "Mason" jars of alcohol and a Chevrolet sedan, described in a schedule, attached hereto and marked "Schedule A", seized on December 11, 1960 on the New Jersey Turnpike, Mile Post No. 41, in the Township of Mount Laurel, New Jersey, constitute unlawful property and should be forfeited.

When this matter came on for hearing, pursuant to R.S. 33:1-66, Mary Price, the registered owner of the said Chevrolet sedan, appeared at the hearing and sought its return. No one opposed forfeiture of the alcohol.

Reports of ABC agents, and other documents in the file, presented in evidence with the consent of the claimant, disclose the following facts: A New Jersey State trooper halted the motor vehicle in question on the New Jersey Turnpike aforesaid, while on his routine patrol, on December 11, 1960 at around 7:00 a.m. He ascertained that the said motor vehicle was being driven by one Wilbur Johnson, who was accompanied by a friend of his, a Miss Bernice Hackney. The motor vehicle bore New York license plates 4C-797. Upon examination the trooper found 120 two-quart "Mason" jars of alcohol in the trunk of the automobile, without a tax stamp on any of the jars indicating the payment of tax on alcoholic beverages. The trooper arrested Wilbur Johnson who assumed full responsibility for the transportation and possession of the said

alcohol admitting at the time that he purchased it from a man in Siler City, North Carolina for the sum of \$250.00 with the intention of re-selling the same when he came back to New York. The trooper took into custody the alcohol and the Chevrolet sedan, and these items were later turned over to ABC agents. At the hearing herein, Wilbur Johnson testified he borrowed the automobile from Wilbur Price and had never met Mary Price prior to the date of the hearing.

A sample of the contents of one of the jars of alcohol was analyzed by this Division's chemist who reports that it is alcohol and water fit for beverage purposes, with an alcoholic content by volume of 49 percent.

Mary Price, the claimant, testified that she is a widow and has a seven-year-old daughter living with her; that she lives in New York City and she is employed as a rent collector; that at about the time of this incident she was confined to her home because of sickness and requested Walter Price, her brother-in-law, to park this car, which is fully paid for, near his home in the Bronx because she was unable to use it for a period of time, that she does not garage her car, and did not want to get any more parking tickets by leaving the same on her street. She further testified that her brother-in-law took the car and loaned it to a friend of his, Wilbur Johnson, without her knowledge or consent. She states further that she never met Wilbur Johnson before the date of this hearing, and would certainly not have permitted this motor vehicle to be used for any illegal purpose.

I have the discretionary authority to return property subject to forfeiture to a person who establishes to my satisfaction that she acted in good faith and did not know or have any reason to suspect that her property would be used in violation of the Alcoholic Beverage Law R.S. 33:1-66(f). I am persuaded from the testimony of the claimant and from the believable facts and circumstances in this case that the claimant did not know, or have any reason to suspect that her motor vehicle was going to be used for illicit activities, and I believe that the claimant acted in good faith. It was stipulated at the time of the hearing, with the claimant's consent, that in the event that there is an adjudication directing the return of this motor vehicle, no Hearer's Report would be prepared. I shall, therefore, enter an order returning the motor vehicle to the claimant, upon payment of seizure and storage costs thereof.

Accordingly, it is on this 14th day of March, 1961,

DETERMINED and ORDERED that if on or before the 24th day of March, 1961, Mary Price pays the costs of the seizure and storage of the Chevrolet sedan, such motor vehicle will be returned to her; and it is further

DETERMINED and ORDERED that the alcoholic beverages, more fully described in Schedule "A" attached hereto, constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66, and that they be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
DIRECTOR

SCHEDULE "A"

- 120 - two-quart "Mason" jars of alcohol
- 1 - Chevrolet sedan, Engine No. 02125722T 56Y,
New York Registration 4C-797.

4. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - MOTOR VEHICLE ORDERED SOLD - CLAIM OF INNOCENT LIENOR RECOGNIZED - ILLICIT ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure on)	Case No. 10,429
October 11, 1960 of a quantity of		
alcohol and a Buick sedan on Stanton)	ON HEARING
Avenue, Janvier, in the Township of		CONCLUSIONS
Franklin, County of Gloucester, and)	AND ORDER
State of New Jersey.		

Lawrence G. Molino, representing the Equitable Credit and Discount Co.
 I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether eight one-gallon glass jugs of alcohol and a Buick sedan, described in a schedule attached hereto, marked "Schedule A", seized on October 11, 1960 on Stanton Avenue, Janvier, Franklin Township, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R.S. 33:1-66 an appearance was entered on behalf of Equitable Credit and Discount Company, a corporation, which sought recognition of its lien on the said Buick sedan. No one opposed forfeiture of the alcohol.

Following the hearing and before preparation of the Hearer's Report, the Hearer in this matter resigned from this Division. It was therefore stipulated by the attorney for the claimant, Equitable Credit and Discount Company, that the said claimant does consent to a decision based upon the pleadings, transcript of testimony, and exhibits previously presented, waiving a Hearer's Report.

Reports of ABC agents and other documents in the file, presented in evidence, disclose the following facts:

On Tuesday, October 11, 1960 two motor vehicle inspectors observed the motor vehicle involved herein crossing the white center line on Malaga Road, Williamstown, New Jersey. The driver of the said motor vehicle was ordered to pull over to the side of the road, but instead of complying with the inspector's orders, the driver sped away. The inspectors gave chase and intercepted and stopped the automobile on Stanton Avenue, aforesaid. The motor vehicle bore Pennsylvania license plates No. 254-638 registered in the name of Willie Walker of Philadelphia who was operating the automobile at the time. A search of the automobile by the inspectors revealed eight one-gallon glass jugs of alcohol in the trunk without a stamp on any of the jars indicating the payment of tax on alcoholic beverages. The inspectors thereupon took possession of the said alcoholic beverages and the motor vehicle which were later turned over to ABC agents.

A sample of the contents of one of said jars was analyzed by the Division's chemist who reports it is alcohol and water fit for beverage consumption with an alcoholic content by volume of 43.0 percent.

The seized alcohol is illicit because of the absence of a tax stamp on any of the jars. R.S. 33:1-1(1), R.S. 33:1-88. Such illicit alcohol and the motor vehicle in which it was transported and found constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66. The Equitable Credit and

Discount Company has presented in evidence a conditional sales contract dated January 18, 1957 signed by Willie Walker together with a Certificate of Title to the said motor vehicle from the Department of Revenue of Pennsylvania to the Equitable Credit and Discount Company evidencing a loan of \$200.00 by the claimant to the said Willie Walker. It appears from the testimony of the collection manager of the Equitable Credit and Discount Company and from a letter dated March 7, 1961 in which he more specifically clarified his testimony pursuant to my request, that on March 25, 1960 claimant granted a loan to Willie Walker in the nominal sum of \$200.00. On that date, Willie Walker owed the General Motors Acceptance Corporation the sum of \$17.25 on a prior loan and claimant thereupon received a transfer of the various documents held by the said corporation together with the conditional sales contract as security for its loan to the claimant. Claimant paid to General Motors Acceptance Corporation the balance due of \$17.25 and received a release of the General Motors Acceptance Corporation lien, and actually advanced to the claimant the amount of \$182.36. Payments were made by the said Willie Walker to the claimant between March 25, 1960 and November 18, 1960 (the date of the hearing) so that the actual amount due and owing to the claimant on its claim, as reflected by its open account, is the sum of \$108.34.

The claimant further testified that in the course of its dealing with Willie Walker it ascertained that he was employed as a truck driver; that he resided in Philadelphia; that he was 48 years of age and married and it obtained from Walker a number of personal references which were checked by the finance company and from which it appeared to the claimant that he was a satisfactory credit risk.

I am satisfied from the evidence presented that the claimant acted in good faith and did not know or have any reason to suspect that Walker would transport illicit alcohol in the Buick sedan. I shall therefore recognize its lien to the extent of \$108.34.

Accordingly, it is on this 15th day of March, 1961

DETERMINED and ORDERED that the Buick sedan described in Schedule "A" attached hereto, constitutes unlawful property and the same be and is hereby forfeited in accordance with the provisions of R.S. 33:1-66 and that it be offered for sale at public sale pursuant to State Regulation No. 29 and sold by the Director of the Division of Alcoholic Beverage Control if a bid satisfactory to him is obtained; and it is further

DETERMINED and ORDERED that if the Buick sedan is sold, out of the proceeds of said sale there shall be first deducted the costs of seizure, storage and sale as may have been incurred or may be incurred; second, out of the balance, if any, there shall be paid to the Equitable Credit and Discount Company its lien claim recognized to the extent of \$108.34; and third, the balance of the proceeds of such sale after the payments aforesaid, shall be retained for the use of the State of New Jersey; and it is further

DETERMINED and ORDERED that the balance of the seized property, more fully described in Schedule "A" attached hereto, constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66, and that it be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
DIRECTOR

SCHEDULE "A"

- 8 - one-gallon glass jugs of alcohol
- 1 - Buick sedan, Serial No. 4C5053 269, Engine No. A12068501, Pennsylvania Registration 254-638.

5.

ACTIVITY REPORT FOR MARCH 1961

ARRESTS:		
Total number of persons arrested	-----	22
Licensees and employees	----- 14	
Bootleggers	----- 8	
SEIZURES:		
Motor vehicles - cars	-----	2
Stills - over 50 gallons	-----	2
Mash - gallons	-----	2,250.00
Distilled alcoholic beverages - gallons	-----	36.73
Brewed malt alcoholic beverages - gallons	-----	4.12
RETAIL LICENSEES:		
Premises inspected	-----	615
Premises where alcoholic beverages were gauged	-----	739
Bottles gauged	-----	11,665
Premises where violations were found	-----	56
Violations found	-----	82
Prohibited signs	----- 24	
Unqualified employees	----- 17	Other mercantile business
Application copy not available	----- 13	Disposal permit necessary
Reg. #38 sign not posted	----- 8	Other violations
STATE LICENSEES:		
Premises inspected	-----	48
License applications investigated	-----	6
COMPLAINTS:		
Complaints assigned for investigation	-----	406
Investigations completed	-----	396
Investigations pending	-----	129
LABORATORY:		
Analyses made	-----	160
Refills from licensed premises - bottles	-----	16
Bottles from unlicensed premises	-----	32
IDENTIFICATION:		
Criminal fingerprint identifications made	-----	8
Persons fingerprinted for non-criminal purposes	-----	252
Identification contacts made with other enforcement agencies	-----	193
Motor vehicle identifications via N. J. State Police teletype	-----	1
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	14
Violations involved	-----	14
Sale during prohibited hours	----- 12	
Sale to minors	----- 2	
Cases instituted at division	-----	25*
Violations involved	-----	35
Possessing liquor not truly labeled	----- 6	Unqualified employee
Sale during prohibited hours	----- 5	Failure to close premises during
Sale below filed price	----- 3	prohibited hours
Sale to minors	----- 2	Permitting lottery activity (numbers)
Conducting business as a nuisance	----- 2	Unlicensed sale by solicitor
Sale to intoxicated persons	----- 2	Aiding & abetting unauthorized sale
Permitting bookmaking on premises	----- 2	Unauthorized transportation
Permitting foul language on premises	----- 2	Failure to keep true books of acct
Permitting immoral activity on premises	----- 2	Fraud in application
*Includes one cancellation proceeding--License improvidently issued to club not bona fide.		
Cases brought by municipalities on own initiative and reported to Division	-----	20
Violations involved	-----	23
Sale to minors	----- 12	Hindering investigation
Sale during prohibited hours	----- 4	Failure to close premises during
Permitting brawl on premises	----- 4	prohibited hours
Purchase from improper source	----- 1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	44
Appeals	----- 14	Seizures
Disciplinary proceedings	----- 22	Tax revocations
Eligibility	----- 4	
STATE LICENSES AND PERMITS ISSUED:		
Total number issued	-----	819
Licenses	----- 2	Wine permits
Solicitors' permits	----- 39	Miscellaneous permits
Employment	----- 152	Transit insignia
Disposal	----- 52	Transit certificates
Social affair	----- 346	
OFFICE OF AMUSEMENT GAMES CONTROL:		
Licenses issued	----- 229	
Enforcement files established	----- 8	

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

Dated: April 6, 1961

6. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - CONDUCTING BUSINESS DURING PROHIBITED HOURS. IN VIOLATION OF LOCAL REGULATION - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ANNA SRAMOWICZ, Admin'x. of the Est. of PETER SRAMOWICZ, Dec'd. 125 Essex Street Jersey City 2, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-497, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Defendant-licensee, by Richard Sramowicz, Manager Dora P. Rothschild, Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On Sunday, February 19, 1961, at about 9:50 A.M. you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages viz., 6 - 12 oz. cans of Rheingold beer, at retail, in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of such alcoholic beverages from your licensed premises; in violation of Rule 1 of State Regulation No. 38.
"2. On Sunday, February 19, 1961, at about 9:50 A.M. you conducted your licensed business; in violation of Section 4 of Ordinance K-1299 regulating the sale and distribution of alcoholic beverages by all those holding plenary retail consumption licenses in the City of Jersey City, adopted by the Board of Commissioners of Jersey City on June 20, 1950, which prohibits any such activity between the hours of 2:00 A.M. and 1:00 P.M. on Sundays."

On Sunday, February 19, 1961, at about 9:30 a.m., ABC Agents S and D observed a male entering the hallway entrance to the defendant's licensed premises. They further observed that there were two other men who were apparently cleaning up these premises. At about 9:50 a.m. Agent D knocked on the front door and, when the door was opened by one of the occupants of the premises, inquired whether he could purchase some beer. This person instructed him to go into the hallway and enter by the side door. As he approached the side door, a man left the premises and the agent was unable to obtain his identification. Agent D was then admitted through the side door by Wasyl Furka (a part-time bartender employed by the licensee). The agent purchased six cans of Rheingold beer from the bartender and then rejoined Agent S who had observed the transaction from the outside. Both agents then entered the premises and made their identities known to Furka who orally admitted the sale but refused to make a written statement.

Defendant has no prior adjudicated record. I shall suspend

below the minimum resale price of \$9.90 then in effect for the two bottles of fifths of Four Roses Whiskey.

The defendant has a prior adjudicated record. Effective February 2, 1959, its license was suspended by the Municipal Board of Alcoholic Beverage Control of Newark for ten days for an "hours" violation. In addition, when the license for these premises was in the name of the partnership of Philip and Sophie Sabin, each of whom presently holds one share of stock in this corporate licensee, such license was suspended by this Division for ten days effective October 19, 1943, for sale on Election Day, in violation of the Rules and Regulations. Bulletin 590, Item 13. However, because the latter dissimilar violation occurred more than five years prior to the date of the instant violation, it will not be considered in the imposition of the penalty. The minimum penalty for the violation charged herein is ten days. Re Spruce Liquors, Inc., Bulletin 1377, Item 10. In view of the fact that there is a dissimilar violation which occurred within five years of the instant violation, an additional five days will be imposed. Re Club Windsor, Inc., Bulletin 1223, Item 7. I shall suspend defendant's license for a period of fifteen days and remit five days for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 16th day of March 1961,

ORDERED that Plenary Retail Consumption License C-537, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to 183 Meeker Avenue Corporation, t/a Sabins, for premises 183 Meeker Avenue, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, March 27, 1961, and terminating at 2 a.m. Thursday, April 6, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

HILLTOP TAVERN, INC.)
t/a HILLTOP TAVERN, INC.)
50 Essex Street)
Lodi, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-21, issued by the Mayor and Council of the Borough of Lodi.)

Defendant-licensee, by Anton Stastny, President.
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it possessed on its licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

On February 17, 1961, an ABC agent tested defendant's open stock of liquor and seized two bottles for further tests by the Division chemist. Subsequent analysis by the chemist disclosed

that the contents of one of said bottles, when compared with the contents of a genuine bottle of the same brand, varied substantially in solids and had artificial color added. Mr. Anton Stastny (president of the corporate licensee), who was present and in charge of the licensed premises during this inspection, denied any knowledge of any tampering with the contents of the said bottles, and stated that he could give no explanation as to why the alcoholic beverages appeared to vary from the contents of genuine bottles of the same brand.

Defendant has a prior adjudicated record. Effective June 23, 1958, defendant's license was suspended by the Mayor and Council of Lodi for two days for an "hours" violation. The minimum suspension in a "refilling" case involving one bottle is ten days (Re P. & R. Restaurant, Inc., Bulletin 1349, Item 6), to which will be added five days because of the dissimilar violation which occurred within the past five years (Re Fanok, Bulletin 1307, Item 11), making a total suspension of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 20th day of March 1961,

ORDERED that Plenary Retail Consumption License C-21, issued by the Mayor and Council of the Borough of Lodi to Hilltop Tavern, Inc., t/a Hilltop Tavern, Inc., for premises 50 Essex Street, Lodi, be and the same is hereby suspended for ten (10) days, commencing at 3 a.m. Monday, March 27, 1961, and terminating at 3 a.m. Thursday, April 6, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

JOHN ZARZECKI)
341 Warren Street)
Jersey City 2, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-11, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

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

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging that he possessed on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On February 3, 1961, an ABC agent tested defendant's open stock of liquor and seized three bottles for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of two of said bottles, when compared with the contents of genuine bottles of the same brands, varied substantially

in solids. At the time of the seizure two bartenders then on duty denied to the agent that they tampered with the contents of any of said bottles.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days, the minimum penalty imposed in cases involving two bottles. Re Aston, Bulletin 1373, Item 8. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 20th day of March 1961,

ORDERED that Plenary Retail Consumption License C-11, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to John Zarzecki, for premises 341 Warren Street, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, March 27, 1961, and terminating at 2 a.m. Thursday, April 6, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

10. CANCELLATION PROCEEDINGS - HOLDER OF LICENSE CEASED TO BE A BONA FIDE CLUB - LICENSE CANCELLED.

DISCIPLINARY PROCEEDINGS - SALE TO NON-MEMBERS - NO PENALTY FIXED BECAUSE OF CANCELLATION OF LICENSE.

In the Matter of Cancellation of License)
and Disciplinary Proceedings against)

THE LAKEWOOD GOLD CLUB)
Hope Road)
Lakewood, N. J.)

CONCLUSIONS
AND ORDER

Holder of Club License CB-4 (for the 1959-)
60 and 1960-61 licensing years) issued by)
the Township Committee of the Township of)
Lakewood,)

Juska & Fisher, Esqs., by Edward F. Juska, Esq., Attorneys for)
Defendant-licensee.)
William F. Wood, Esq., Appearing for the Division of Alcoholic)
Beverage Control.)

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded non vult to the following charge:

'On Tuesday, September 29, 1959, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to persons not bona fide members of your club or bona fide guests of such member; in violation of Rule 8 of State Regulation No. 7.'

"The defendant was also required to show cause why its license should not be cancelled and declared null and void for the following reason:

'Said license was improvidently issued in violation of R.S. 33:1-12(5) and Rule 2 of State Regulation No. 7 in that, at the time of issuance of said license and prior thereto, you had ceased to be a bona fide club.'

"A hearing on this matter was originally scheduled for April 18, 1960 and, at the request of defendant's attorney, was adjourned from time to time until September 8, 1960. Both the defendant and its attorney failed to appear for the hearing on September 8, 1960 and, no good reason being given for their absence, the Division proceeded ex parte to prove its case.

"Two ABC agents, hereinafter referred to as Agents B and V, testified that in December 1959 and January 1960, they investigated the business and operation of the licensee; that the licensee originally obtained its license in September 1957 by a transfer from the Lakewood Country Club (a business corporation) and has renewed the same for the years 1958, 1959 and 1960; that the licensed premises are located in the premises of the Lakewood Hotel and Land Corporation; that Raef Haddad is the principal stockholder in the latter two companies; that Haddad has no official connection with the licensee; and that part of the records of the licensee are in the personal possession of Haddad at his office in Long Island, New York. The agents further testified that the licensee's records list Percy G. Platt as president, Donald Towbin as vice-president, Emily Onley as secretary and Abe Levy as treasurer; that on December 8, 1959 they interviewed Platt, who stated that for the past five years he has been employed as superintendent of the grounds of the Lakewood Country Club; that he never was a member or a trustee of the defendant club; that he did not know when the defendant club was organized; that he did not know if the licensee was a corporate entity; that he has been president of the club-licensee since 1959; that he had previously denied to the agents that he held this office; that Mr. Haddad had informed him that he made him the president of the club-licensee and that Mr. Haddad was the owner of the Country Club, the golf course and 'everything else'.

"The agents further testified that Mrs. Onley had told them that the Country Club financed the licensee at its inception; that the Country Club would assume any losses incurred by the licensee; that complimentary membership cards to the club-licensee were issued upon instructions by Mr. Haddad without the approval or knowledge of the trustees and that Mrs. Onley referred them to Mr. Haddad or his attorney for any additional information.

"The agents obtained a sworn, written statement dated December 23, 1959 from Abe Levy in which he stated that he is recorded as the treasurer and as a trustee of the licensee; that he takes no active part in the management or supervision of the licensee's activities; that he is unfamiliar with the licensee's financial status; that he has never attended a meeting of the Board of Trustees and that he holds aforesaid offices in name only.

"In a sworn, written statement dated December 30, 1959, Donald Towbin states that he is recorded as the licensee's vice-president or treasurer; that he never served in either capacity; that he holds the office in name only; that upon request from either Mr. Haddad, Mrs. Onley or Mr. Robert Schmertz (a trustee); he permitted the use of his name as aforesaid; that he knows nothing about the licensee's business affairs, its finances, its policies or its employees and that he takes no part in the operation or management of the club-licensee.

"Jerry Poe, in a sworn, written statement dated December 23, 1959, states that he is listed as a trustee of the defendant; that he holds this office in name only; that he has never attended a meeting of the Board of Trustees and that he is unfamiliar with the affairs of the licensee.

"On December 23, 1959 Dr. Norman Szold and Dr. Solomon Zinkin

(recorded as trustees of the corporate licensee) informed Agents B and V that they knew nothing of the financial affairs of the licensee; that they may have attended one or two meetings and that they did not know under what circumstances the club obtained its license.

"The agents further testified that on January 5, 1960 they interviewed Robert Schmertz (recorded as a trustee) at the office of the Lakewood Hotel and Land Company where he has desk space; that Mr. Schmertz stated that Mr. Haddad had made him an honorary member of the club-licensee; that he is unfamiliar with the licensee's financial affairs, its method of operation and its policies; that he has no interest in the business affairs of the licensee; that the licensee has no policy and that honorary membership cards to the club-licensee are handled by Mr. Haddad without any action on the part of the trustees.

"The Division contends that the defendant does not constitute a bona fide club. From all of the foregoing, I conclude that this contention has been established. The club's entire modus operandi is inconsistent with its continued existence as a bona fide club. The conclusion is inescapable that almost since its inception the officers and trustees of the club had no voice in its management, in fixing its policies or otherwise function on behalf of the club. It would appear that the management of the club was in sole control of Raef Haddad. Moreover, the facts in this case clearly indicate that, within the intendment of the Alcoholic Beverage Law, the defendant is not presently a bona fide club. Hence, I recommend that an order be entered cancelling the license now held by the licensee. Under the circumstances, it is unnecessary to recommend a penalty for the violation set forth in the charge to which the defendant has pleaded non vult and to consider defendant's prior record. Cf. Re Eight Aces, Bulletin 1072, Item 5."

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

Having carefully considered the record herein, including the transcript of the proceedings and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 20th day of March, 1961,

ORDERED that Club License CB-4, for the 1960-61 licensing year, issued by the Township Committee of the Township of Lakewood to The Lakewood Golf Club, for premises on Hope Road, Lakewood, be and the same is hereby cancelled and declared null and void, effective immediately.

WILLIAM HOWE DAVIS
DIRECTOR

12. DISCIPLINARY PROCEEDINGS - SUSPENSION PREVIOUSLY IMPOSED TEMPORARILY LIFTED.

In the Matter of Disciplinary Proceedings against)

RIVERVIEW TAVERN, INC.)
t/a NOREL'S)
244 Bloomfield Avenue)
Denville, N. J.)

ON PETITION ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Denville)

James F. McGovern, Jr., Esq., Attorney for Petitioner.

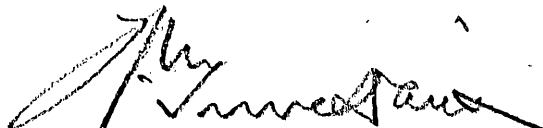
BY THE DIRECTOR:

An order having been entered on March 9, 1961, suspending defendant's license for thirty days commencing at 3 a.m. Monday, March 20, 1961, and terminating at 3 a.m. Wednesday, April 19, 1961; and

It appearing from the petition filed herein that, prior to the entry of said order, defendant had entered into contracts for a testimonial dinner to be held at its licensed premises on April 7, 1961, and for a wedding reception to be held at said premises on April 8, 1961; and it appearing that more than 200 persons, who are expected to attend said affairs, would be inconvenienced by the suspension of defendant's license on said dates;

It is, on this 20th day of March 1961,

ORDERED that the thirty-day suspension heretofore imposed shall commence at 3 a.m. Monday, March 20, 1961, and continue in effect until 3 a.m. Friday, April 7, 1961; that said suspension shall then be lifted until 3 a.m. Sunday, April 9, 1961, at which time the suspension shall be reinstated and continue in effect until 3 a.m. Friday, April 21, 1961.



William Howe Davis
Director