

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

Mr. Gossweiler

BULLETIN 1331

March 22, 1960

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1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1331

March 22, 1960

1. APPELLATE DECISIONS - BRANHAM v. HARRISON (CASES 1 and 2).

#2659)
John Branham,)
)
Appellant,)
)
v.)
)
Town Council of the Town of Harrison,)
)
Respondent.)

ON APPEAL

Case No. 1.)
-----)

CONCLUSIONS

#2679)
John Branham,)
)
Appellant,)
)
v.)
)
Town Council of the Town of Harrison,)
)
Respondent.)

AND

ORDERS

Case No. 2.)
-----)

Krieger & Chodash, Esqs., by Benjamin H. Chodash, Esq.,
Attorneys for Appellant.
Joseph P. DiSabato, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"In Case No. 1, appellant appeals from the action of respondent whereby on May 5, 1959 it suspended his 1958-59 plenary retail consumption license issued for premises 600-602 North 4th Street, Harrison, for 120 days, commencing at 2:00 a.m., May 6, 1959. By order dated May 15, 1959 the Director stayed the suspension previously imposed until the entry of a further order herein. R.S. 33:1-31.

"In Case No. 2, appellant appeals from the failure to renew his license for the current licensing year. Upon the filing of an appeal an order was entered by the Director on June 25, 1959 extending the term of appellant's 1958-59 license until the entry of a further order herein. R.S. 33:1-22.

"On March 24, 1959 respondent instituted disciplinary proceedings against appellant based on the following charges:

1. On or about January 1st, 1959, February 28th, 1959 and March 7th, 1959 you allowed, permitted and suffered in or upon your licensed premises lewdness, immoral activity, and/or foul, filthy or obscene language and/or conduct and/or any brawl, act of violence, disturbance, and/or unnecessary noise. You further allowed and permitted or suffered your licensed place of business to be conducted in such a manner as to

become a nuisance all in violation of Rule 5, State Regulation No. 20.

2. On or about February 22nd, 1959 and February 27th and 28th, you allowed, permitted and suffered the sale, service and delivery of an alcoholic beverage to Joseph --- a person under the age of twenty-one (21) years (to wit: February 22nd, 1959, three bottles of beer; February 27th - 28th, 1959, four or five bottles of beer) at retail for consumption on your licensed premises in violation of Rule 1 of State Regulation No. 20.
3. On the dates aforementioned you permitted, and/or suffered notorious criminals, gangsters, racketeers, and/or other persons of ill repute in or upon your licensed premises in violation of Rule 4, State Regulation No. 20.
4. You employed persons under the age of twenty-one (21) years and you allowed, permitted and suffered the employment of said persons in and upon your licensed premises without said persons having first (1) obtained an employment permit from the Director of the Division of Alcoholic Beverage Control, nor did the person under twenty-one (21) years; (2) within ten (10) days after becoming employed file with the Director of the Division of Alcoholic Beverage Control the application and fee for his employment permit nor (3) were you covered under a blanket employment permit issued to you under Rule 10 of the State Regulation No. 13 in violation of Rule 3 State Regulation No. 13.

"As a result of a hearing on said charges on April 2, 1959, a resolution dated May 5, 1959 was adopted by the respondent wherein appellant was found guilty of all charges and his license was ordered suspended for the period hereinbefore mentioned. In response to an inquiry as to whether any action was taken by respondent with reference to the renewal of appellant's license for the 1959-60 period, appellant received the following letter:

June 23, 1959

Mr. John Branham
600-602 No. 4th Street
Harrison, N. J.

Dear Sir:

In reply to your recent letter, please be advised that at their meeting of June 16th, the governing body did not approve your application for renewal of plenary retail consumption license #C-74.

Very truly yours,

(signed) Charles A. Farley
Town Clerk.

"As to Case No. 1: Eighteen witnesses testified on behalf of the respondent and ten witnesses (in addition to the appellant) testified on behalf of the appellant. All of the witnesses were examined and cross-examined at length by the attorneys for the respective parties, which necessitated the preparation of a voluminous

transcript of the testimony in this matter. It appears from the testimony that on four specific occasions, that is, January 1 and 2, February 28 and March 7, 1959, trouble arose either on the inside of appellant's licensed premises or immediately outside thereof.

"A summary of the undisputed testimony discloses that on New Year's Eve or the early morning of January 1st, a fight took place outside appellant's premises. The testimony elicited from witnesses failed to positively identify the persons involved as coming from appellant's establishment.

"It appears that on January 2, 1959 a police officer (assigned to special duty in appellant's premises) apprehended a patron who had thrown a bottle at the members of the band. The officer testified he was not aware of any commotion prior to the time of the bottle throwing incident. He further testified that upon his suggestion, the owner closed the establishment earlier than usual. The person who had thrown the bottle testified that it was done on a sudden impulse because of personal reasons.

"The record further discloses that on February 28, 1959, a fight started in appellant's premises. The testimony given by a patron was to the effect that after the appellant stopped the trouble and requested the participants to leave the premises, those involved in the trouble resumed the altercation on the outside thereof.

"The record furthermore sets forth that on March 7, 1959, a brawl took place on the licensed premises and the testimony of various patrons was that one of the bartenders attempted to stop the fight while the other bartender telephoned the police. Shortly after the arrival of the police, the persons involved in the brawl were apprehended and one of the participants was taken to a hospital for injuries sustained where he remained there for a period of six days.

"Appellant produced witnesses who testified that although they lived nearby, there was never any unreasonable noise emanating from appellant's premises. The respondent produced witnesses who also live near appellant's establishment and their testimony was to the effect that on weekends there was considerable noise resulting from the operation of appellant's place of business.

"The wife of one of the members of respondent Council testified that on Saturday night, during the time her son, a minor, played in the band which entertained at appellant's premises, she, her husband and friends visited the establishment and that she never 'saw anything out of the way'. She also testified that when her son contemplated playing in a band on licensed premises, she telephoned to a town official who told her it was unnecessary for the youth to obtain a permit. A former partner of appellant testified that it was her understanding from a telephone call to the Division of Alcoholic Beverage Control that it was unnecessary for a minor to obtain a permit to play on licensed premises.

"Joseph --- testified that he was born on June 20, 1938 and that he had visited appellant's premises on February 22nd and again on February 28, 1959. He testified that on both occasions he was served bottles of beer, but could not identify the bartender who had made service thereof. He also testified that he was one of those who had been involved in a brawl on February 28th in appellant's premises. His version of the incident was that he accidentally brushed against another patron and, after some words, was pushed through the doorway into the street where five fellows 'jumped' him. It was brought out during the hearing that when 18 years of age, Joseph had been convicted of the crime of carrying a concealed weapon and, as a result thereof, was placed on probation.

"Appellant testified that since November 7, 1957 he has had an interest in the licensed premises and that on February 3, 1959 he became the sole owner thereof. He further testified that prior to January 1, 1959 he recalled a couple of small fights in the licensed premises but each time the police came up and 'ironed out' the situations. According to his testimony, there was nothing unusual to have fights occurring each week in taverns throughout the town. Appellant also testified that he recalled Joseph coming into the premises on February 22nd and producing a driver's license indicating his age to be 24; that when he asked Joseph to sign a card certifying as to his age, Joseph refused and, as a consequence thereof, the bartender was ordered not to serve anything to Joseph of an alcoholic nature. Furthermore, on February 28, 1959 appellant testified that he recognized Joseph when he entered the premises and, thereupon, ordered the bartender not to serve alcoholic beverages to him. The appellant claimed that he was always cooperative with the police and, in one instance when he received a noise complaint from a neighbor, he went to considerable expense to change the location of the band so as not to cause any further inconvenience.

"It is apparent from an examination of the evidence presented herein that appellant's licensed premises has a lure for younger people who are attracted there by the type of music and entertainment provided. There is no doubt because of the numerous brawls occurring from time to time within the licensed premises that various patrons who frequent the establishment do so for the purpose of starting trouble therein. This fact should have been recognized by the appellant and at all times he and his employee should have been constantly on the alert to prevent such situations from occurring. Appellant admitted that at times prior to the dates set forth in the charges preferred herein, small fights occurred in the premises in addition to those mentioned in one of the charges, which can be described as fights of considerable magnitude, one resulting in a participant being hospitalized for six days because of injuries sustained in the brawl. The believable evidence presented is sufficient to lead one to the unmistakable conclusion that by the constant repetition of the brawls in question, appellant lacked the required control necessary in the operation of the licensed premises, thus suffering said premises to be conducted in such a manner as to constitute a nuisance.

"As was said in Caso v. Belleville, Bulletin 101, Item 8: 'It is a salutary exercise of disciplinary power to impress licensees that they are responsible for keeping the peace in their taverns at all times'. There is sufficient evidence to sustain guilt of sale of alcoholic beverages to a minor and employing a minor without proper employment permit. The making of alleged telephone calls to ascertain the status of the law regarding employment of minors on licensed premises cannot be accepted as an excuse for violation of the law. However, after consideration of the evidence relating to Charge 3 that appellant was guilty of permitting and suffering notorious criminals, gangsters and persons of ill repute on his licensed premises, I am satisfied that the finding of guilt on said charge by the respondent was unjustified and should be reversed.

"In view of the serious violations of which appellant has been adjudged guilty, the suspension imposed, although severe, is not a basis for reversal, or even modification, on this appeal. Any plea for mitigation should be made, if at all, to respondent, which may grant relief in the event that the members thereof determine that such action is advisable. Re Bischoff, Bulletin 53, Item 5; Russo v. Lincoln Park, Bulletin 1177, Item 7. I recommend, after consideration of all the evidence, that an order be entered affirming respondent's action as to Charges 1, 2 and 4 and that, because of my recommendation that respondent's finding of guilt on Charge 3 be reversed, the suspension imposed by respondent be modified from 120 days to 100 days.

"Insofar as Case No. 2 is concerned, there appears to be no reason given whatsoever for rejecting appellant's application and no specific reason for respondent's action is set forth in the answer filed herein. Although no formal resolution was prepared or insofar as can be ascertained, any formal action whatsoever was taken by the respondent, it is my well-considered opinion that, under the circumstances, respondent's action or lack of action was equivalent to a denial of the application for renewal and that said action was arbitrary and unreasonable. Cf. The Great Atlantic and Pacific Tea Company v. Manasquan, Bulletin 87, Item 10. I therefore recommend that respondent be directed to grant appellant's application for renewal of his license subject, however, to the 100 days suspension recommended herein, less the time that the license was already suspended before the order of stay entered by the Director became effective."

Written exceptions to the Hearer's Report and written argument thereon were filed with me by the appellant's attorney and written answering argument was filed by respondent's attorney, pursuant to Rule 14 of State Regulation No. 15. Thereafter, I decided to hear oral argument in the matter. Oral argument was heard by me on January 29, 1960.

I have carefully considered the facts and circumstances appearing herein and agree with the Hearer's findings and conclusions as expressed in his Report. However, with reference to Case No. 1, I shall not accept the Hearer's recommendation that the penalty imposed by respondent be reduced from 120 to 100 days. Although I am cognizant that the suspension imposed is quite severe, I am, nevertheless, aware that the policy of this Division has always been that a suspension imposed by the local issuing authority in disciplinary proceedings should not be disturbed unless it has been adequately shown on appeal to have been so manifestly excessive to warrant a reduction thereof. Robinson v. Newark, Bulletin 54, Item 2. The penalty imposed herein, when considering the violations committed by appellant, does not appear to be unreasonable or unduly excessive and there is no evidence of any improper motivation on the part of respondent thereof. Laurence Harbor Amusement Corporation v. Madison, Bulletin 955, Item 1, and cases cited therein.

Appellant's license was suspended by respondent for 120 days, effective at 2:00 a.m., May 6, 1959. On May 15, 1959, when I entered an order staying the effect of respondent's order of suspension pending determination of this appeal, the appellant's license had already been suspended for ten days. Therefore, appellant is entitled to receive credit for the time the licensed premises had been closed.

I shall affirm the action of respondent in Case No. 1 and reinstate the suspension of 120 days heretofore imposed, less ten days already served, leaving a net suspension of 110 days. I shall reverse the action of respondent in Case No. 2 in refusing to renew appellant's license for the 1959-60 licensing year. The appellant has been operating under an extension of his 1958-59 license pending final determination of this appeal. R.S. 33:1-22.

Accordingly, it is, on this 15th day of February, 1960,

ORDERED that the action of respondent in Case No. 1 be and the same is hereby affirmed and the appeal with reference thereto be and the same is hereby dismissed; and it is further

ORDERED that the 120 day suspension of appellant's license imposed by respondent, less ten days already served, or a net suspension of 110 days, is hereby reimposed and reinstated to commence at 2:00 a.m., Wednesday, February 24, 1960, and to terminate at 2:00 a.m., Monday, June 13, 1960; and it is further

ORDERED that the action of respondent in Case No. 2 be and the same is hereby reversed and respondent is directed to renew appellant's license for the 1959-60 licensing period, in accordance with the application heretofore filed.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - BECKER et al. v. KEANSBURG AND SHEEHAN'S PACKAGE STORE, INC.

Frank Becker and The Bay Shore Tavern Owners Association,)

Appellants,)

On Appeal

v.)

CONCLUSIONS and ORDERS

Mayor and Council of the Borough of Keansburg, and Sheehan's Package Store, Inc., t/a "Sheehan's Package Store, Inc.",)

Respondents.)

James F. McGovern, Jr., Esq., Attorney for appellants.
No Appearance on behalf of respondent Mayor and Council
William K. Miller, Esq., Attorney for respondent Sheehan's Package Store, Inc.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This appeal has been taken from the action of respondent Mayor and Council on September 15, 1959, whereby it granted an application filed by respondent Sheehan's Package Store, Inc. (hereafter Sheehan's) to transfer its license D-1 from 57 Church Street to 229 Main Street, Keansburg.

"The petition of appeal alleges, in substance, that the Notice of Intention to apply for said transfer was not properly advertised and that there is no need for an additional license in the section of the Borough to which the license was transferred.

"It is admitted that said Notice of Intention was published in the Red Bank Register. However, the Keansburg News is a qualified weekly newspaper which is published and circulated in the Borough of Keansburg and, hence, it was necessary to advertise the notice in the News instead of the Register, which is a qualified daily newspaper but which is published elsewhere in Monmouth County. R.S. 33:1-25. Because the original Notice of Intention was not published in the proper newspaper, respondent lacked jurisdiction to consider the application for transfer on September 15, 1959. (Cf. Re Soriano, Bulletin 323, Item 2.)

"In an apparent attempt to correct the situation, Sheehan's caused a Notice of Intention to be inserted in the Keansburg News on October 8, 1959, and October 15, 1959. The appeal herein was filed on October 14, 1959. On November 4, 1959, respondent Mayor and Council adopted a resolution substantially reciting the facts hereinabove set forth and granting the same transfer in accordance with Sheehan's application.

"At the hearing herein Frank Becker (one of the appellants) testified that he conducts a tavern on Main Street, a short distance

from the premises to which Sheehan's license was transferred. He further testified that he had no knowledge of the advertisement in the Red Bank Register; that, after he saw the advertisement in the Keansburg News, he attempted to file a written objection with the Township Clerk prior to the meeting held on November 4 and that the Clerk refused to receive his written objection.

"Although respondent Mayor and Council did not file an answer, Mayor Gravany and Borough Clerk Jessen appeared at the hearing herein. The Mayor made a statement which is not material to the issues in this case. The Borough Clerk testified that the minutes of a meeting of Mayor and Council held on October 20, 1959, disclose that 'Mr. Frank Becker renewed his objections' to the granting of the transfer and was advised that the transfer had been endorsed on the certificate 'in accordance with the authority to do so at our September 15 1959 meeting' and was further advised that the present appeal was pending.

"In any event, respondent Mayor and Council had no jurisdiction to reconsider its original action after the appeal herein was filed. Katzner v. Newark, Bulletin 175, Item 5. Hence its action on November 4, 1959, must be considered as a nullity.

"After considering the evidence and exhibits herein, I conclude that the action of respondent Mayor and Council must be reversed on jurisdictional grounds. It is recommended, therefore, that an order be entered reversing said action. It is further recommended that said order provide that leave be granted to respondent Sheehan's Package Store, Inc. to apply to the Director for a special permit authorizing it to continue its business at 229 Main Street, Keansburg, pending the re-advertising of its Notice of Intention in the Keansburg News and pending reconsideration by the Mayor and Council of its application for transfer already filed, after said re-advertising shall have been completed. Klein and Tucker v. Fairlawn et al., Bulletin 1175, Item 3.

"Under the circumstances, it is not necessary to pass upon the additional issue as to whether or not there is need for an additional license in the area in question. That is an issue which should be decided primarily in the sound discretion of the local issuing authority. If written objections are filed with the Borough Clerk as a result of said re-advertising, a hearing thereon must be held by the Mayor and Council in accordance with Rules 8 and 9 of State Regulation No. 6."

Pursuant to the provisions of Rule 14 of State Regulation No. 15, the attorney for appellants filed written exceptions to that portion of the Hearer's Report which recommended that respondent Sheehan's Package Store, Inc. be granted a special permit to operate pending re-advertising and reconsideration by respondent Mayor and Council. Written answering argument to the Exceptions was filed by the attorney for respondent Sheehan's.

During the hearing of the instant appeal the appellants' attorney made mention that he did not in any manner dispute the fact that the respondent-licensee has operated his liquor business for a number of years. Furthermore, near the close of the case the attorney for respondent-licensee stated: "I assume that all parties continue in their present status", to which the appellants' attorney made no objection or comment whatsoever.

I have carefully considered the evidence and exhibits herein. The testimony of the Borough Clerk indicates that the licensee is presently and had been operating at 229 Main Street prior to the hearing held herein. The practice of granting such special permits when the advertising was defective dates back to 1935 when Commissioner Burnett decided The Methodist Episcopal Church at Verona v. Verona

et al., Bulletin 101, Item 5. The practice was recently followed in Klein and Tucker v. Fairlawn et al., supra, and in Lending v. Palisades Park et al., Bulletin 1329, Item 1. I, therefore, adopt the conclusions in the Hearer's Report as my conclusions herein, and I shall enter an order as recommended.

Accordingly, it is, on this 15th day of February 1960,

ORDERED that the action of respondent Mayor and Council of the Borough of Keansburg, whereby it granted an application filed by respondent Sheehan's Package Store, Inc., t/a "Sheehan's Package Store, Inc.", for a transfer of its License D-1 from 57 Church Street to 229 Main Street, Keansburg, be and the same is hereby reversed effective Tuesday, February 23, 1960; and it is further

ORDERED that leave be granted to respondent Sheehan's Package Store, Inc., t/a "Sheehan's Package Store, Inc.", to apply to me, on or before said date, for a special permit authorizing it to exercise, temporarily, the privileges of its license at 229 Main Street, Keansburg, pending a prompt reconsideration and redetermination by the Mayor and Council of its application for transfer previously filed, after it has properly re-advertised its Notice of Intention to apply for said transfer.

WILLIAM HOWE DAVIS
DIRECTOR

3. APPELLATE DECISIONS - LALLEY v. PATERSON AND MARMO, JR.

Anthony Lalley,)	
Appellant,)	
v.)	On Appeal
)	O R D E R
Board of Alcoholic Beverage Control for the City of Paterson, and Thomas Marmo, Jr.,)	
Respondents.)	

Miller and Platt, Esq., by Isadore B. Miller, Esq., Attorneys for Appellant
 William J. Rosenberg, Esq., Attorney for Respondent Board of Alcoholic Beverage Control
 Charles Wm. Convery, Esq., Attorney for Respondent Thomas Marmo, Jr.

BY THE DIRECTOR:

This is an appeal from the action of respondent Board on September 23, 1959, whereby it granted a transfer of plenary retail consumption license C-170 from Arlene B. Bassano, t/a Arlene's Tavern, to respondent Thomas Marmo, Jr., and from premises at 51 Cross Street to premises at 314 River Street, Paterson.

Prior to the hearing of the appeal the attorney for appellant (who apparently was a creditor of Arlene B. Bassano) advised me in writing that his client desired to withdraw the appeal and notified me that he had sent a copy of his letter to the attorneys for each of the respondents. No reason appearing to the contrary,

It is, on this 9th day of February 1960,

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

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - SALES TO INTOXICATED PERSONS - PRIOR RECORD - LICENSE SUSPENDED FOR 55 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

The Player's Club (A Corporation))
t/a Player's Club)
Route #206)
Andover Township)
PO Andover, New Jersey,)

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Andover Township Committee.)

VanBlarcom, Silverman & Weber, Esqs., by Albert G. Silverman, Esq.,
Attorneys for Defendant-licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On November 23, 1959, 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., Louis ---, age 16 and Vincent ---, 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 Regulation No. 20.

"2. On November 23, 1959, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons, viz., the above named Louis --- and Vincent ---, actually or apparently intoxicated and allowed, permitted and suffered the consumption of such beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

Acting on information received from the New Jersey State Police, ABC agents obtained signed, sworn statements from Louis --- (age 16) and Vincent --- (age 20).

Vincent stated that at about 4 a.m. on Monday, November 23, 1959, he, Louis and a minor companion entered the defendant's licensed premises where each consumed a bottle of beer served to them by the bartender who did not require them to make any written representation as to their ages; that prior to their aforesaid visit to the defendant's licensed premises they had been to a few other taverns and that they were intoxicated when they consumed the alcoholic beverages served to them in defendant's licensed premises. The foregoing is substantially corroborated by Louis' statement. Thereafter Louis and Vincent identified the licensed premises as the place where they purchased and consumed the alcoholic beverages.

In a signed, sworn statement Vincent R. Lee stated that between 4 and 5 a.m. on Monday, November 23, 1959, he was the bartender on duty when aforesaid minors entered the defendant's licensed premises; that he served a bottle of beer to Louis and one of the other minors without requiring them to make any written

representations of their ages; that the three minors appeared to have been drinking prior to their visit to the defendant's licensed premises; that Louis and one of his companions were sober and that the third individual appeared as if he had overindulged.

By way of mitigation the attorney for the defendant has submitted a statement setting forth that, at the request of the bartender, the minors produced written proof that they were of legal age; that each of the minors appeared to be over twenty-one years of age, and that the 16-year-old minor was in fact much older in appearance than his age indicated. The bartender, however, failed to obtain written representation from the minors that they were of legal age, as required by R.S. 33:1-77. After carefully reading aforesaid statement, together with the file in the case, the reports of the agents and the statements of the minors, I am unable to find any extenuating circumstances which would impel me to impose less than the minimum penalty in cases of this kind.

Defendant has a prior adjudicated record. Effective January 11, 1960, the local issuing authority suspended defendant's license for ten days for sale to minors. I shall suspend defendant's license for the minimum period of twenty-five days on Charge 1 (Re Shoreview, Inc., Bulletin 1307, Item 3); for twenty days (the minimum period) on Charge 2 (Re Storch, Bulletin 1303, Item 7) and for an additional ten days for the prior similar violation which occurred within the past five years (Re The Aloha, Inc., Bulletin 1307, Item 2), making a total suspension of fifty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifty days.

Accordingly, it is, on this 15th day of February 1960,

ORDERED that plenary retail consumption license C-2, issued by the Andover Township Committee to The Player's Club (A Corporation), t/a Player's Club, for premises on Route #206, Andover Township, be and the same is hereby suspended for fifty (50) days, commencing at 7 a.m. Tuesday, February 23, 1960, and terminating at 7 a.m. Wednesday, April 13, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Stanley J. Iwanicki & Boley A. Stamper)
4 Market Street)
Passaic, New Jersey)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-135, issued by the Board of Commissioners of the City of Passaic.)

ORDER

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

BY THE DIRECTOR:

Defendants have entered a plea of non vult to a charge alleging that they possessed in and upon their licensed premises alcoholic beverages in bottles bearing labels which did not truly

describe the contents thereof, in violation of Rule 27 of State Regulation No. 20.

On December 17, 1959 an ABC agent tested defendants' open stock of assorted brands of liquor and seized a number of bottles for further tests by the Division's chemist. The chemist's report discloses that the contents of nine bottles seized from defendants' establishment were low in acids, high in solids and off in color when compared with genuine samples of the respective brands.

Defendants have a prior adjudicated record. Effective May 1, 1951 a license held by defendant Stanley J. Iwanicki in partnership with Joseph F. Flis was suspended by the then Director for ten days for a similar violation. Re Flis & Iwanicki, Bulletin 906, Item 11. The minimum suspension for a violation wherein nine bottles are involved is thirty-five days. Re The Lounge, Inc., Bulletin 1293, Item 6. Inasmuch as the similar violation aforementioned occurred more than five years ago but within a period of ten years, I shall add five days to the suspension herein, making a total of forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 15th day of February 1960,

ORDERED that Plenary Retail Consumption License C-135, issued by the Board of Commissioners of the City of Passaic to Stanley J. Iwanicki & Boley A. Stamper, for premises 4 Market Street, Passaic, be and the same is hereby suspended for thirty-five (35) days, commencing at 3:00 a.m., Monday, February 29, 1960 and terminating at 3:00 a.m., Monday, April 4, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)	
)	
Club Zanzibar Corp.)	CONCLUSIONS
t/a Club Zanzibar)	
139½ West Broadway)	
Paterson 2, New Jersey)	AND
Holder of Plenary Retail Consumption License C-39, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)	ORDER

Defendant-licensee, by Bernard Brown, President.
William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty 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 December 12, 1959, an ABC agent tested defendant's open bottles of alcoholic beverages and seized, among other bottles, a quart bottle of "Four Roses Blended Whiskey 86 Proof" for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed

that when compared with an analysis of the genuine product, the contents of said bottle were higher in solids and lower in acids.

Defendant has no prior adjudicated record. By way of mitigation, Mr. Brown states that he is the president of defendant-corporation; that he recently became a stockholder and officer of the corporation; that the seized bottle is part of the stock of the liquor which was on the premises when he acquired his interest in the corporation; that he had no knowledge regarding the contents of said bottle of whiskey and acquired it in good faith. Nevertheless, a licensee in taking over an open stock of liquor, necessarily assumes the risk if alcoholic beverages not truly labeled are subsequently found on its premises. Cf. Re Anchor Corporation, Bulletin 1281, Item 12. I shall suspend defendant's license for the minimum period of ten days. Re Anchor Corporation, supra. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 16th day of February, 1960,

ORDERED that Plenary Retail Consumption License C-39, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Club Zanzibar Corp., t/a Club Zanzibar, for premises 139½ West Broadway, Paterson, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m., Monday, February 29, 1960, and terminating at 3:00 a.m., Saturday, March 5, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISQUALIFICATION REMOVAL PROCEEDINGS - FIVE YEARS GOOD CONDUCT NOT SHOWN - APPLICATION DENIED.

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

CONCLUSIONS

Case No. 1524.)
)
-----)

BY THE DIRECTOR:

Applicant's fingerprint returns disclose that in 1931 three charges alleging assault and battery were preferred against him, one of which was dismissed, and that he was fined \$5 on the other two; that in 1935 he was convicted on a charge of impersonating a police officer and was sentenced to a term of one to two years in State Prison and that on June 7, 1957 a jury convicted him of conspiracy to make book and he was fined \$1,000 and placed on probation until the fine was paid. Impersonating a police officer is a crime involving fraud and precludes applicant from engaging in the alcoholic beverage industry in this State unless and until his disqualification is removed.

At the hearing herein, applicant testified that he is 48 years of age and single; that he is employed as a jewelry and haberdashery salesman; that he was honorably discharged from the U. S. Air Corps; that he desires and has an opportunity to become a bartender; that his conviction in 1935 resulted from his association with three companions, one of whom showed a police courtesy card to a girl and claimed that the four were police officers and that his conviction in 1957 resulted from placing a bet for himself with a person who admitted he was a bookmaker. Applicant testified further that he has not been convicted of any other crimes and has had no difficulty with the law since June 7, 1957, and the police department of the city wherein applicant resides reports no complaints or investigations presently pending against him.

Three witnesses (the general manager of a corporation, a salesman and a chief inspector of one of the State's departments) appeared on applicant's behalf and testified that they have known him for over seven years and that he has a good reputation in the community.

One of the statutory requirements necessary for the lifting of a disqualification is that applicant must have conducted himself in a law-abiding manner for a period of five years last past following his last conviction. R. S. 33:1-31.2.

Since five years have not elapsed from the time that applicant was convicted on June 7, 1957, as aforesaid, I shall deny his application.

WILLIAM HOWE DAVIS
DIRECTOR

Dated: February 17, 1960

8. AUTOMATIC SUSPENSION - DISCIPLINARY PROCEEDINGS DISMISSED BY LOCAL ISSUING AUTHORITY - AUTOMATIC SUSPENSION LIFTED.

Auto. Susp. #178)
In the Matter of a Petition to)
Lift the Automatic Suspension)
of License D-1, issued by the)
Township Committee of the Town-)
ship of Monroe (Middlesex County),)
to)

O R D E R

Clemens and Jadwiga Krygier)
t/a Krygier's Liquor Store)
Jamesburg-Helmetta Road)
Monroe Township)
PO Helmetta, N. J.)

BY THE DIRECTOR:

It appears from a verified petition filed herein that on December 17, 1959, petitioner was fined \$50 after she had been found guilty in the Municipal Court of the Township of Monroe on a charge of selling alcoholic beverages to a minor in violation of R.S. 33:1-77. Said conviction resulted in the automatic suspension of the license held by Clemens Krygier and Jadwiga Krygier for the balance of its term. R. S. 33:1-31.1.

By order dated December 24, 1959, the automatic suspension of License D-1, which resulted from the conviction of Jadwiga Krygier in the Municipal Court of the Township of Monroe, was stayed until the entry of a further order herein. The stay was granted because disciplinary proceedings had not been disposed of by the Monroe Township Committee. See Bulletin 1321, Item 3. It now appears from a Resolution and Order adopted by said Township Committee on February 1, 1960 that, after a hearing was held in the disciplinary proceedings, the charge against the licensees was dismissed.

Under the circumstances, I shall enter an order lifting the aforesaid automatic suspension.

Accordingly, it is, on this 18th day of February 1960,

ORDERED that the automatic suspension of said license D-1 issued by the Township Committee of the Township of Monroe (Middlesex County) to Clemens and Jadwiga Krygier, t/a Krygier's Liquor Store,

for premises on Jamesburg-Helmetta Road, Monroe Township, be and the same is hereby lifted and said license is restored to full force and operation, effective immediately.

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

Theodore F. Sefchick, Sr. & Sophie Sefchick
t/a Sefchick's Tavern
22 Jackson Street
Passiac, New Jersey

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption License C-107, issued by the Board of Commissioners of the City of Passaic.

Defendant-licensees, by Theodore F. Sefchick, Sr., a partner.
William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On December 23, 1959, an ABC agent tested defendant's open stock of liquor and seized a number of bottles for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of two of the seized bottles varied substantially in solids and color when compared with genuine bottles of the same products.

Defendants have no prior adjudicated record. I shall suspend their license for fifteen days, the minimum penalty in cases involving two bottles. Re Rosenthal, Bulletin 1312, Item 13. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 23rd day of February 1960,

ORDERED that Plenary Retail Consumption License C-107, issued by the Board of Commissioners of the City of Passaic to Theodore F. Sefchick, Sr. & Sophie Sefchick, t/a Sefchick's Tavern, for premises 22 Jackson Street, Passaic, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m., Wednesday, March 2, 1960 and terminating at 3:00 a.m., Saturday, March 12, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY (BASEBALL POOL) - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

William Gorda, Bertha Gorda and Stephen Gorda, Anna Gorda t/a Clarkson Manor Bar 630 Clarkson Avenue Elizabeth 2, New Jersey

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption License C-81, issued by the City Council of the City of Elizabeth.

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O'Connor, Morss & O'Connor, Esqs., by Richard R. O'Connor, Esq., Attorneys for Defendant-licensees. 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 September 25, 1959 and prior thereto, you engaged in and allowed, permitted and suffered gambling, viz., the conduct of a lottery, commonly known as a 'baseball pool', in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.
"2. On September 25, 1959, and prior thereto, you allowed, permitted and suffered a lottery, commonly known as a 'baseball pool' to be conducted in and upon your licensed premises, and sold and offered for sale and possessed, had custody of and allowed, permitted and suffered tickets and participation rights in such aforementioned lottery, in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

On Friday, September 25, 1959, an ABC agent paid \$5 to William Gorda, one of defendant-licensees, to participate in a world series baseball pool for which a drawing for innings was to be held the following Monday. The said William Gorda wrote the agent's name on a slip of paper and inserted the paper in his shirt pocket and placed the money in his trouser pocket. Thereafter, the agent contacted the local police and two officers accompanied him to defendants' licensed premises. During the time that the agent was gone from the premises, Gorda went upstairs to his apartment where he was confronted with the violation. The slip of paper containing names of those participating in the baseball pool and \$39 were turned over by Gorda to the police.

Defendants have no prior adjudicated record. It appears that all the money collected was to be paid to the winners of the pool. Inasmuch as this does not appear to be a case of commercialized gambling, I shall suspend defendants' license for a period of ten days, Re Konner's Grill, Inc., Bulletin 1313, Item 8; Re Kuyl, Bulletin 1323, Item 2. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 23rd day of February 1960,

ORDERED that Plenary Retail Consumption License C-81, issued by the City Council of the City of Elizabeth to William Gorda, Bertha Gorda and Stephen Gorda, Anna Gorda, t/a Clarkson Manor Bar, for premises 630 Clarkson Avenue, Elizabeth, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m., Wednesday, March 2, 1960 and terminating at 2:00 a.m., Monday, March 7, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

11. STATE LICENSE - NEW APPLICATION FILED.

Holsten Import Corporation
67 Margaretta Street
Newark, New Jersey
Application filed March 16, 1960 for
Limited Wholesale License.


William Howe Davis
Director