

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

BULLETIN 1127

AUGUST 22, 1956.

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Hackensack) - AGGRAVATED SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 50 DAYS.
2. DISCIPLINARY PROCEEDINGS (Teaneck) - SALES TO MINORS - LICENSE SUSPENDED FOR 35 DAYS.
3. DISCIPLINARY PROCEEDINGS (Teaneck) - CHARGE ALLEGING SALES TO MINORS, DISMISSED.
4. DISCIPLINARY PROCEEDINGS (Newark) - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PERMITTING OBSCENE LANGUAGE ON LICENSED PREMISES - CHARGE ALLEGING HINDERING, DISMISSED - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS.
5. DISCIPLINARY PROCEEDINGS (Orange) - CLUB LICENSEE - SALE TO NON-MEMBERS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Phillipsburg) - SALE OF ALCOHOLIC BEVERAGES AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Paterson) - SALES TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Greenwich Township, Gloucester County) - SALES TO MINORS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
9. MINIMUM CONSUMER RESALE PRICE - NOTICE CONCERNING FILINGS FOR MALT ALCOHOLIC BEVERAGES - TIME EXTENDED.
10. STATE LICENSES - NEW APPLICATIONS FILED.

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

BULLETIN 1127

AUGUST 22, 1956.

1. DISCIPLINARY PROCEEDINGS (Hackensack) - AGGRAVATED SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 50 DAYS.

In the Matter of Disciplinary Proceedings against)
FRANCESCA IANNELLO,)
t/a Hackensack Long Bar,) CONCLUSIONS
169 Hudson Street,) AND
Hackensack, New Jersey,)
Holder of Plenary Retail Consumption License C-16 (for the 1955-56 and 1956-57 licensing years), issued by the City Council of the City of Hackensack.) ORDER
-----)

Dominick Fondo, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On Monday night, December 26, and early Tuesday morning, December 27, 1955, 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., Arnold ---, age 15, and Lawrence ---, age 16, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing held herein, Arnold --- testified that he and Lawrence --- entered defendant's licensed premises on December 26, 1955, at about 8:30 p.m.; that there were about fifteen patrons in the premises; that they sat at the bar and he ordered "two beers" from Samuel Aleci who was tending bar; that the bartender placed on the bar two glasses of beer, the contents of which he and Lawrence consumed; that they remained on the premises until about 1:30 a.m., December 27, 1955, and that during their stay he consumed fifteen or twenty beers and three or four "gins and 7's", all of which were served by Aleci, who did not question either him or his companion as to their respective ages.

Lawrence --- testified that he was born on July 8, 1939; that he and Arnold --- entered defendant's licensed premises on December 26, 1955, "between 8 and 8:30;" that there were about fifteen patrons in the place; that he and Arnold --- sat at the bar and that he told Samuel Aleci (the bartender), "I will have a beer;" that the bartender placed on the bar two glasses of beer, the contents of which he and Arnold --- consumed; that they remained there until "1:30 or

2 o'clock" and that, during their stay, he consumed fifteen or twenty glasses of beer and three or four "gin and 7's", all of which were served by Samuel Aleci, who did not question him as to his age. Lawrence --- also testified on cross-examination that during the evening he had "salt fish or something" in defendant's premises.

An ABC agent testified that on January 13, 1956, Arnold --- and Lawrence --- directed ABC agents to defendant's premises; that they identified the premises as the place where they had been served, and identified Samuel Aleci as the person who had served them.

On behalf of defendant, Samuel Aleci testified that he is regularly employed elsewhere but tends bar in defendant's premises on Monday of each week between 5:30 p.m. and 2 a.m. the following morning. He admitted he was tending bar there on Monday, December 26, 1955, but denied that either of the boys was there on that evening. He denied that he ever sold "gin and 7 Up." He also denied there was salt fish on the premises, but admitted that there were peanuts. A son-in-law of the defendant, who said he was serving tables in the premises from 6 p.m. to closing, and three patrons who said they were in the premises on the evening in question, denied that the boys were there. Another patron testified that he knows both boys; that he was present with his girl on December 26, 1955, from 8 p.m. to 1 a.m. the following morning, and that he did not see either of the boys. On cross-examination he stated that he was seated in a booth with his girl and that he did not sit at the bar.

After carefully considering all the testimony, I believe that Lawrence --- and Arnold --- are telling the truth. There is no apparent reason why they should lie. The evidence of the patrons, concerned with their own affairs, does not convince me that the boys were not present. The bartender admits that he was on duty on the evening in question. For the reasons aforesaid, I find defendant guilty as charged.

As to prior record: When the license was held by Francesca Iannello and Alfonso Cassetta, it was suspended by the local issuing authority for three days, effective March 30, 1954, for permitting a brawl, and again suspended for five days, effective May 30, 1954, for sales to intoxicated persons and for permitting a brawl. The usual penalty for sale, prior to January 16, 1956, to minors who are 15 and 16 years of age is a suspension of the license for thirty-five days (Re Union Casino, Inc., Bulletin 1058, Item 14). However, this case is aggravated by the number of drinks served to the minors (Re DiThomas, Bulletin 1069, Item 6). Considering all the facts, including the prior dissimilar violations within the past five years, I shall suspend defendant's license for fifty days.

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

ORDERED that plenary retail consumption license C-16, for the 1956-57 licensing year, issued by the City Council of the City of Hackensack to Francesca Iannello, t/a Hackensack Long Bar, for premises 169 Hudson Street, Hackensack, be and the same is hereby suspended for fifty (50) days, commencing at 2 a.m. July 31, 1956, and terminating at 2 a.m. September 19, 1956.

WILLIAM HOWE DAVIS,
Director.

2. DISCIPLINARY PROCEEDINGS (Teaneck) -- SALES TO MINORS -- LICENSE SUSPENDED FOR 35 DAYS.

In the Matter of Disciplinary Proceedings against)

Gustav W. Loveland & John Anderson, t/a Forest Tavern, 66 East Forest Avenue, Teaneck, New Jersey,)

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption License C-12 (for the 1955-56 and 1956-57 licensing years), issued by the Township Council of the Township of Teaneck.)

Berthold Vorsanger, Esq., Attorney for Defendant-licensees. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to the following charge:

"On Saturday night, November 26, 1955 and early Sunday morning, November 27, 1955, 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., Arnold ---, age 15, and Lawrence ---, age 16, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons, in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing held herein Arnold --- testified that he was born on July 29, 1940; that on November 26, 1955, he and Lawrence --- entered defendants' licensed premises between 11:30 p.m. and 11:45 p.m. and sat at the bar; that two beers were ordered; that Gustav W. Loveland, who was tending bar, drew two beers from the tap and placed one beer in front of him and one in front of Lawrence; that each drank his beer and that he thereafter drank two or three beers which were similarly served before they left the premises at 12:30 a.m. Lawrence --- testified that he was born on July 8, 1939; that on November 26, 1955, he and Arnold entered defendants' premises between 11:45 p.m. and 12:10 a.m. of the following morning; that they sat at the bar and ordered two beers which were served by Gustav W. Loveland (the bartender); that, after they consumed these drinks, he drank four or five more beers during the forty-five minutes they remained on the premises. Both minors denied that the bartender had questioned them as to age on the evening in question, but Lawrence stated that, on a prior visit, Loveland had asked if he was twenty-one and had served him with beer after he replied in the affirmative. Lawrence denied that Loveland had ever required him to make a written representation as to his age.

An ABC agent testified that on January 13, 1956, he accompanied both minors to defendants' premises and that both then identified Loveland as the person who had made the sale. He further testified that Loveland stated that he had left the premises about 6 p.m. on November 26, 1955, and did not return

until the following morning; that he had never seen Arnold before, and that he had chased Lawrence out prior to November 26, 1955.

On behalf of defendants, Gustav W. Loveland testified that he went home after 6 p.m. on November 26, 1955, and that his partner, John Anderson, relieved him. He further testified that, prior to that date, Lawrence had told him he was twenty-four years of age and that he had told him to go to the police station and get a certificate. John Anderson testified that he relieved his partner at 6 p.m. on November 26, 1955, and that he did not serve beers to the two minors on that night or any other night. Two other persons testified that they were patrons in the premises between 10 p.m. and 1:30 a.m. of the following morning, and that they did not see either minor in the premises during that time. Both admitted that they were talking to friends in the premises. A third patron testified that he left the premises about 11:30 p.m. on the evening in question.

After carefully considering all the testimony and the oral argument in this case, I conclude that the two minors were served and consumed beer on defendants' licensed premises on the evening of November 26, 1955. There appears to be no reason why they should testify falsely. The fact that the two patrons who allege that they were present after 11:30 p.m. do not remember seeing the minors on the premises does not convince me that the minors were not there. Even if there is any doubt as to whether the minors have correctly identified the particular person who served them, their testimony is clear that they were in defendants' licensed premises on the occasion in question and were there served the various drinks of beer. Re LaCorte, Bulletin 469, Item 1; Re Burns, Bulletin 1060, Item 10. Hence, I find defendants guilty as charged.

Defendants have no prior adjudicated record. The minimum penalty for sale (prior to January 16, 1956) to two minors, 15 and 16 years of age, is a suspension for a period of thirty-five days (Re Union Casino, Inc., Bulletin 1058, Item 14). I shall suspend defendants' license for thirty-five days.

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

ORDERED that plenary retail consumption license C-12 for the 1956-57 licensing year, issued by the Township Council of the Township of Teaneck to Gustave W. Loveland & John Anderson, t/a Forest Tavern, for premises 66 East Forest Avenue, Teaneck, be and the same is hereby suspended for thirty-five (35) days, commencing at 2 a.m. July 31, 1956, and terminating at 2 a.m. September 4, 1956.

WILLIAM HOWE DAVIS,
Director.

3. DISCIPLINARY PROCEEDINGS (Teaneck) - CHARGE ALLEGING SALES TO MINORS, DISMISSED.

In the Matter of Disciplinary Proceedings against
 JOHN BORSTELMANN & JOHN BORSTELMANN, JR.,
 t/a Teaneck Delicatessen,
 446 Cedar Lane,
 Teaneck, New Jersey,
 Holders of Plenary Retail Distribution License D-4 (for the 1955-56 licensing year), issued by the Township Council of the Township of Teaneck.

CONCLUSIONS
 AND
 ORDER

Herbert F. Myers, Jr., Esq., Attorney for Defendant-licensees.
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to the following charge:

"On January 6, 1956, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, in and upon your licensed premises, to a person under the age of twenty-one (21) years, viz., Arnold ---, age 15; in violation of Rule 1 of State Regulations No. 20."

Arnold --- and Lawrence --- are the same two minors mentioned in Re Iannello and in Re Loveland & Anderson, both decided herewith.

It appears from the testimony given by an ABC agent at the hearing herein that another minor (John ---, who could not be produced at the hearing because he had joined the Marines) stated at first to the agent that he had purchased a quantity of wine at licensed premises in Hudson County; that said minor subsequently changed his story and said that said wine had been purchased by Arnold ---.

At the hearing herein Arnold --- (15 years of age) testified that on the afternoon of January 6, 1956, he, Lawrence ---, John ---, Charles --- and James --- had been in a candy store, some distance from defendants' premises, when Lawrence ---, John --- and James --- chipped in fifty cents each to "get each a bottle of wine." He further testified that they all got into the auto of Charles ---, who let Arnold "off right around the corner there right next to" defendants' store; that he (Arnold) entered the premises alone between 2 p.m. and 3 p.m. and purchased three pints of Guild Port Wine for \$1.50 from John Borstelmann, Jr., who placed the bottles in a bag; that he (Arnold) left the premises with the bag and returned to the car.

Lawrence --- and Charles --- testified that they were in the car on the afternoon of January 6, 1956; that it arrived in the vicinity of defendants' premises between two and three o'clock; that Arnold ---, who had previously received the sum of

\$1.50, entered defendants' premises empty-handed and returned to the car carrying a paper bag containing three bottles of Guild Port Wine.

The ABC agent testified that on the evening of January 12, 1956, Arnold ---, Lawrence ---, Charles --- and James --- directed him and other officers to and identified defendants' premises; that Arnold --- entered the premises with him and the other officers and identified John Borstelmann, Jr. as the person who had made the sale; that John Borstelmann, Jr. denied making the sale and said he had never seen Arnold before.

On behalf of defendants, John Borstelmann, Jr. testified that on January 6, 1956 he left the store about 1:30 p.m., visited a Buick agency and a hardware store, and returned to the licensed premises about 3:45 p.m. He denied that Arnold was in defendants' premises at any time on January 6, 1956. He also testified that there are two other licensed premises nearby. John Borstelmann, Sr. testified that he was in the licensed premises during the absence of his son on the afternoon of January 6, 1956. He denied that Arnold entered defendants' premises during that period of time. Henry Lutken, employed as a chef by defendants, Adele Borstelmann, who works in the kitchen of the premises, and Walter Michel, a paper salesman who testified he was in defendants' premises from 2:15 p.m. to 4:15 p.m. on the day in question, all denied that Arnold entered the premises that day. A cash register tape showing all sales during the first two weeks in January discloses no sale made for the sum of \$1.50 during that period.

After considering all the evidence and the oral argument herein, I find that there is only slight evidence to corroborate Arnold's testimony that he purchased the wine in defendants' premises. On the other hand, five witnesses testified that the minor was not in the premises on that day and the cash register tape does not disclose a sale for the amount allegedly paid for the wine. Under all the circumstances, I conclude that the Division has not sustained the burden of establishing defendants' guilt by a fair preponderance of the evidence and, hence, I shall dismiss the charge.

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

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

WILLIAM HOWE DAVIS,
Director.

- 4. DISCIPLINARY PROCEEDINGS (Newark) - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PERMITTING OBSCENE LANGUAGE ON LICENSED PREMISES - CHARGE ALLEGING HINDERING, DISMISSED - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS.

In the Matter of Disciplinary Proceedings against)

MORRIS MOSKOWITZ,)
 60 Waverly Avenue,)
 Newark 8, New Jersey,)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-346 for the 1955-56 licensing period, as extended, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)
 -----)

ORDER

John J. Clancy, Esq., and Joseph Brody, Esq., Attorneys for Defendant-licensee.
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR :

Defendant pleaded not guilty to the following charges:

- "1. On Sunday, February 12, 1956, you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, at retail, in its original container for consumption off your licensed premises, viz., a pint bottle of Gallo California Muscatel, a wine; in violation of Rule 1 of State Regulations No. 38.
- "2. On Sunday, February 12, 1956, you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises; in violation of Rule 5 of State Regulations No. 20.
- "3. On Sunday, February 12, 1956, while an Investigator and an Inspector of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey were conducting an investigation, inspection and examination at your licensed premises, you failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation, inspection and examination; in violation of R. S. 33:1-35."

An ABC agent (hereinafter referred to as Agent "W") testified as follows: At about 1:20 p.m. on Sunday, February 12, 1956, he and another ABC agent (hereinafter referred to as Agent "A") arrived in the vicinity of defendant's licensed premises; that he entered the premises and Agent "A" remained outside; that as he proceeded to the center of the bar he observed two bartenders on duty and about "twenty to twenty-two male and female patrons" in the establishment; that one of the

bartenders was subsequently identified as the defendant; that during ten minutes of the fifteen minutes he remained in the premises he heard patrons, both male and female, using foul, indecent and filthy language (the repetition of which would serve no useful purpose) but that neither bartender made an effort to stop such language; that at about 1:30 p.m., after he asked the defendant "for a pint of gin to go", the defendant inquired if he knew any of the patrons in the establishment and when he mentioned a few names, the defendant proceeded to the end of the bar, spoke to a man, returned to the agent and said "No"; that thereafter he observed the defendant speaking to another man at the end of the bar who was later identified as Anderson Hamrick; that he observed the said Hamrick hand some money to the defendant who rang up the cash register, took a pint bottle of Gallo Muscatel Wine from a shelf and handed it to Hamrick who put the bottle in his coat pocket and in the company of a male companion left the premises; that he (Agent "W") thereafter followed the two men and when they proceeded around the corner a short distance from the premises he saw them enter a small hallway where he approached them and obtained the bottle of wine from Hamrick; that he, Hamrick and Agent "A" returned to the tavern; that as they entered, defendant came over to them and said, "He didn't buy it here. I did not sell it"; that the agents identified themselves and, at the suggestion of Agent "A", all proceeded to the storeroom where Hamrick was asked whether he would give a voluntary statement as to what occurred; that Hamrick started to answer questions until defendant interrupted saying, "You don't have to give a statement. You can stand on your constitutional rights"; that Hamrick then refused to answer any further questions; that the defendant left the room for a short period of time, made a telephone call, and when he returned, repeated on several occasions, "Don't give a statement. I'm not giving a statement. My attorney is coming here. You don't have to give a statement."

Agent "A", who had accompanied Agent "W", testified that he remained outside the licensed premises at the time in question and about fifteen minutes after Agent "W" had entered the premises he observed him come out of the premises followed by another man whom he subsequently learned to be Anderson Hamrick; that Agent "W" and Hamrick proceeded around the corner and as he reached the corner he noticed Agent "W" and Hamrick coming down the stoop; that Agent "W" had a pint bottle containing Muscatel Wine in his hand and after he joined the agent and Hamrick, the three returned to defendant's licensed premises; that upon entering, before the agents had an opportunity to identify themselves, the defendant stated, "I didn't sell that man nothing"; that the agents then identified themselves and after making it known to the defendant that Hamrick had purchased a pint bottle of wine in the licensed premises, the defendant became excited, exclaiming to Hamrick, "Don't say nothing"; that thereafter, at his (Agent "A's") suggestion, they proceeded to another room where Hamrick was asked whether or not he cared to make a statement; that the defendant left the room but returned shortly thereafter and stated that he had spoken to his attorney and that Hamrick did not have to make a statement but could stand on his constitutional rights; and that they spent about five minutes, more or less, in the licensed premises but did not obtain a statement from Hamrick.

Anderson Hamrick, testifying on behalf of the defendant,

stated that on the Sunday in question he had gone into the defendant's premises looking for a friend, at which time he had a pint bottle of wine with him which he had purchased the previous day in another licensed premises; that when he found his friend they both left the premises and went to a hallway a short distance away where he was having a drink of wine when apprehended by Agent "W"; that he and the two agents in question went back to the licensed premises and the defendant said that "If you don't want to make a statement you don't have to. Just like that. I don't know if he was talking directly to me or not, I wasn't listening. There was a lot of commotion"; that he remembered that he was asked by the defendant in the presence of the agents whether he had purchased the wine in defendant's premises and in response thereto stated that he purchased the wine from "a whiskey store" on Belmont Avenue the previous day.

Zem Hamrick, brother of Anderson Hamrick, testified that he was employed by defendant as a bartender and was working on the licensed premises on the Sunday in question; that he recognized Agent "W" in the premises and had "heard he was working for the ABC"; that he observed the defendant shake his head and heard him say "No" to Agent "W" but that thereafter he paid no attention to him; and that he also remembered a man named Frank Vereene come into the premises and when he refused to serve him, Vereene "was a little loud and said a few swear words."

Vereene, called as a witness, corroborated the fact that he did use profane language at the time in question and that the licensee escorted him out of the premises.

The defendant testified that at about 1:30 on Sunday afternoon, February 12, 1956, the agent asked him for a bottle of gin but that he refused to sell it to him saying, "No. No Sunday sales"; that he had no further conversation with the agent but walked away to serve other customers; that thereafter two agents, accompanied by Anderson Hamrick, came into the premises and one of the agents (Agent "A") motioned to him to come from behind the bar, stating, "You sold this man a pint of wine"; that in the presence of the agents he asked Anderson Hamrick whether or not he had purchased the wine in his premises and Hamrick denied so doing, stating that he had purchased it on Belmont Avenue the day before; that Agent "A" suggested they go to another room where he (the defendant) showed the agents papers pertaining to an appeal case which was then pending before the Director of the Division of Alcoholic Beverage Control; that thereafter he left the room and telephoned to his attorney and that when he returned to the room where the agents and Hamrick were, he stated that his attorney had advised him not to make a statement and also suggested that he advise Anderson Hamrick not to make a statement either; and that the agents remained in the premises for approximately twenty minutes during which time a man named Frank Vereene was shouting and cursing and, upon hearing this, he admonished him, took him by the hand, and walked him to the door.

The testimony of Agent "W" who stated that he observed the defendant sell and deliver a pint of Muscatel Wine to Anderson Hamrick on the licensed premises on Sunday, February

12, 1956, was not shaken on cross-examination. I am satisfied that Agent "W" related accurately and truthfully what actually occurred on defendant's licensed premises on the day in question. Although the testimony of Agent "A" as to what he observed after Agent "W" came out of defendant's premises fails to corroborate in some details the testimony given by Agent "W", his testimony does corroborate the pertinent details regarding what occurred after he and Agent "W" entered defendant's licensed premises with Anderson Hamrick. The defendant denied that he had made the sale of the wine to Anderson Hamrick and also denied, with the possible exception of the language of Frank Vereene while he and the agents were discussing the alleged violations, that he heard any patron use indecent or filthy language in the premises.

In the Hearer's Report, dated June 4, 1956, it was recommended that Charge 3 be dismissed. On June 12, 1956, the Prosecutor assigned by me in this matter filed exception to the Hearer's recommendation to dismiss said charge, pursuant to Rule 6 of State Regulations No. 16, as he was of the opinion that the defendant was guilty thereof. However, I agree with the Hearer's recommendation that Charge 3 should be dismissed because the testimony of the alleged hindering on the part of the licensee is not clear and convincing. Agent "W" testified that approximately fifteen minutes were consumed in questioning the defendant, during which time the defendant continuously reminded Anderson Hamrick of his constitutional rights, advising him not to make a statement. On the other hand, Agent "A" testified that about five minutes were consumed, during part of which time the defendant phoned his attorney, who advised him not to give a statement. In my opinion, where a licensee attempts to prevent or prohibit a patron from giving a voluntary statement to an agent of this Division during the course of an investigation in the licensed premises, such conduct constitutes "hindering." However, there is no indication that Hamrick was willing to give Agent "W" a statement except the agents' testimony that Hamrick started to answer questions. Furthermore, Hamrick denied hearing the defendant advise him not to give a statement. I have also examined the exceptions to the Hearer's Report filed by the attorneys for the defendant with reference to Charges 1 and 2 and am not impressed with the contentions therein set forth. After a careful examination of all the evidence adduced herein, I find defendant guilty of Charges 1 and 2. I shall dismiss Charge 3.

Defendant has a prior adjudicated record. When defendant and another person held a liquor license for premises at 254 Orange Street, Newark, the license was suspended by the local issuing authority for fifteen days for sale to minors. In an appeal taken to this Division, the action of the local issuing authority was affirmed and the suspension of the license was reimposed, effective February 11, 1946. Moskowitz and Ziofsky v. Newark, Bulletin 693, Item 9. Effective January 17, 1955, defendant's license for the present premises was suspended for ten days by the local issuing authority for an "hours" violation, which occurred on November 7, 1954. Furthermore, defendant's license was also suspended for ten days by the local issuing authority for permitting a brawl on his licensed premises. However, an appeal from the latter suspension was taken to the Director who affirmed the local issuing authority's action and reimposed the penalty, effective May 3, 1955. Moskowitz v. Newark,

Bulletin 1061, Item 1. In view of the fact that the 1946 violation was dissimilar to those now under consideration and occurred more than five years ago, I shall not consider it in fixing the penalty herein. Re Broadway Cafe, Inc., Bulletin 982, Item 4. However, the violations committed in 1954, one of which was similar to one of the violations herein, shall be taken into consideration in fixing the penalty in this case. In the absence of a prior record, the minimum penalty for the violations in question would be fifteen days on Charge 1 (Re Imbornone, Bulletin 1080, Item 3) and ten days on Charge 2 (Re Lukas, Bulletin 963, Item 4). Although the offense set forth in Charge 1 is a violation of a State Regulation and the "hours" violation to which defendant pleaded non vult in 1954, as aforesaid, is a violation of a local regulation, both are nevertheless similar and the license will be suspended for thirty days on Charge 1. Re Mekis and O'Shaughnessy, Bulletin 952, Item 6. Ten days will be added for the violation set forth in Charge 2, making a total suspension of defendant's license of forty days.

The local issuing authority on June 28, 1956 refused to renew defendant's license for the 1956-57 licensing term. Upon an appeal being filed with me from the said action of the local issuing authority, I extended the license which had been issued to the defendant for the 1955-56 licensing period.

Accordingly, it is, on this 16th day of July 1956,

ORDERED that Plenary Retail Consumption License C-346 for the 1955-56 licensing period, as extended, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Morris Moskowitz, for premises 60 Waverly Avenue, Newark, be and the same is hereby suspended for a period of forty (40) days, commencing at 7 a.m., July 23, 1956, and terminating at 7 a.m., September 1, 1956.

WILLIAM HOWE DAVIS,
Director.

5. DISCIPLINARY PROCEEDINGS (Orange) - CLUB LICENSEE - SALE TO NON-MEMBERS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings)
against)

ORANGE LODGE #135, B.P.O.ELKS,
475 Main Street,)
Orange, New Jersey,)

CONCLUSIONS

Holder of Club License CB-50, for the)
1955-56 and 1956-57 licensing periods,)
issued by the Director of the Division)
of Alcoholic Beverage Control.)

AND

ORDER

Orange Lodge #135, B.P.O.Elks, Defendant-licensee, by Arthur Hutchinson, Chairman - House Committee.
Dora P. Rothschild, Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On June 15, 1956, 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 any such members; in violation of Rule 8 of State Regulations No. 7."

The file herein discloses that on June 15, 1956, at about 10:30 p.m., ABC agents entered defendant's licensed club wherein they purchased and consumed several glasses of beer, served by two bartenders, one of whom was Chairman of the House Committee. Neither bartender inquired of the agents if they were members or bona fide guests of members of said club. The agents, non-members, identified themselves and obtained a sworn statement from Arthur Hutchinson, the Chairman of the House Committee, who says he sold beer to the agents and did not ask them if they were members of the club but thought they were guests.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. (Re Indian Lake Community Club, Inc., Bulletin 1035, Item 7.)

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

ORDERED that Club License CB-50 for the 1956-57 licensing period, issued by the Director of the Division of Alcoholic Beverage Control to Orange Lodge #135, B.P.O. Elks, 475 Main Street, Orange, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. July 30, 1956, and terminating at 2:00 a.m. August 9, 1956.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ALFRED & DOROTHY KURLAND
T/a AL'S LIQUOR STORE
27 South Main Street
Phillipsburg, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Distribution License D-5 for the 1955-56 and 1956-57 licensing periods, issued by the Board of Commissioners of the Town of Phillipsburg.

Alfred & Dorothy Kurland, Defendant-licensees, by Alfred Kurland.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that they sold alcoholic beverages at less than the prices listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulations No. 30.

On March 27, 1956, Martin Bachrach, the holder of a solicitor's permit issued by the Director of this Division authorizing Bachrach's employment by a licensed wholesaler of the State, was observed transferring a number of cases of Scotch whisky from defendants' licensed premises to a passenger car. The motor vehicle was leased to Bachrach's employer, who had obtained a transit insignia therefor authorizing its use in the transportation of alcoholic beverages solely for its own respective business.

Thereafter in a signed sworn statement obtained by ABC agents, Alfred Kurland gave his account of the incident wherein it appears that on March 27, 1956, he sold to Bachrach at a discount of 10% two cases of Chivas Regal Scotch Whisky, two cases of Black & White Scotch Whisky and one case of Dewar's White Label Scotch Whisky, each case containing twelve 4/5 bottles of Scotch Whisky, and that he had sold other Scotch whisky to Bachrach "sometime before Christmas". Kurland refers to Bachrach as sales manager for a wholesaler.

Martin Bachrach in a signed sworn statement obtained by ABC agents, states that he is sales supervisor for his employer; that the licensees are one of his accounts; that on March 27, 1956, he purchased from Alfred Kurland two cases of Black & White Scotch Whisky, two cases of Chivas Regal Scotch Whisky and one case of Dewar's White Label Scotch Whisky for \$380.00 being 10% below the Minimum Consumer Resale Prices and at some time in December 1955, he purchased a case of Scotch whisky from Kurland and was allowed a similar discount. Bachrach further claims that the Scotch was for his personal consumption and the agents observed such whisky stored in his garage.

The total retail consumer resale price in effect on March 27, 1956 for the items purchased by Bachrach was \$418.20. The defendants allowed a discount of \$38.20 whereas the permissive discount was only \$20.21.

Defendants have no previous adjudicated record. Alfred Kurland urged as mitigating circumstances that he sold the Scotch because he needed money due to losses suffered in the Delaware River flood, and considered Bachrach to be "an old friend, a supervisor and not a customer in the normal sense". Neither of these assertions can be accepted as an excuse for selling below the Minimum Consumer Resale Price. Accordingly, because of the large amount of alcoholic beverages sold, I shall suspend defendants' license for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Brodsky, Bulletin 1056, Item 7.

Accordingly, it is, on this 11th day of July, 1956,

ORDERED that Plenary Retail Distribution License D-5, issued for the 1956-57 licensing period by the Board of Commissioners of the Town of Phillipsburg to Alfred & Dorothy Kurland, t/a Al's Liquor Store, 27 South Main Street, Phillipsburg, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. July 23, 1956, and terminating at 9:00 a.m. August 2, 1956.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against)

BENSHE CORPORATION)
T/a CLUB EL MIRAMAR)
109 Hamilton Avenue)
Paterson, N.J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-120 for the 1955-56 and 1956-57 licensing years, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)
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George S. Grabow, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on June 1, 1956 it sold, served and delivered and permitted the sale, service and delivery of alcoholic beverages to two minors and permitted said minors to consume such beverages in and upon its licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that at about 11:15 p.m., June 1, 1956, ABC agents at defendant's licensed premises observed three girls who appeared to be minors enter such premises and take seats at a table near one of the agents. The girls ordered three bottles of beer from a waitress who served each girl with a bottle of beer for which the waitress received 50¢ a bottle without making any inquiry of any of the girls concerning her age. After the girls consumed a portion of the beer the agents disclosed their identity and ascertained that two of the girls were minors, viz., Mattie V. --- (age 17) and Vera W. --- (age 19).

Ben Schneider, who was in charge of the premises, and the waitress were informed that the agents had observed the above sale of beer to the minors, whereupon the waitress stated that she was too busy, could not see and talk to everyone, and served the beer to the girls without any inquiry as to their ages.

Defendant has no prior adjudicated record. Until recently, the usual penalty imposed for sale of alcoholic beverages to two minors, one of whom was only seventeen years of age, was a suspension for fifteen days. However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days. Re Increased Penalties, Bulletin 1095, Item 1. Since the violation herein occurred after that announcement, I shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days. Re Alexander, Bulletin 1112, Item 10.

Accordingly, it is, on this 6th day of July, 1956,

ORDERED that Plenary Retail Consumption License C-120, issued for the 1956-57 licensing year by the Board of Alcoholic

Beverage Control for the City of Paterson to Benshe Corporation, t/a Club El Miramar, 109 Hamilton Avenue, Paterson, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. July 16, 1956, and terminating at 3:00 a.m. July 31, 1956.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against)	
)	
WILLIAM BURT, JR.)	
T/a BURT'S CAFE)	CONCLUSIONS
66 Repauno Avenue)	AND ORDER
Greenwich Township (Gloucester Co.))	
Gibbstown, N. J.,)	
)	
Holder of Plenary Retail Consumption License C-1 for the 1955-56 and 1956-57 licensing periods, issued by the Township Committee of the Township of Greenwich (Gloucester County).)	

William Burt, Jr., Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On Friday, June 15, 1956, at about 11:05 p.m., you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., A/2c Albert J. ---, U. S. Air Force, age 19; in violation of Rule 1 of State Regulations No. 20.

"2. On Friday, June 15, 1956, at about 11:05 p.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages at retail in their original containers for consumption off your licensed premises; in violation of Rule 1 of State Regulations No. 38."

The within file discloses that at about 11:05 p.m. on Friday, June 15, 1956, two ABC agents while in the vicinity of defendant's licensed premises observed a man enter said premises and emerge therefrom a few minutes later carrying six 12-ounce cans of beer. The agents stopped the man and questioned him as to his age. He stated that he was nineteen years of age and further informed the agents that he purchased the beer from a man in the defendant's premises. The agents and the minor entered defendant's establishment and the minor identified Elmer Glocker who was behind the bar as the person who had sold him the beer.

Defendant has no prior adjudicated record. Since the violation set forth in Charge 1 occurred subsequent to January 16, 1956 (see Bulletin 1095, Item 1), I shall suspend defendant's license for the minimum penalty of fifteen days (Re Goldere,

Bulletin 1110, Item 1), and on Charge 2 for an additional fifteen days (Re Sada, Bulletin 1112, Item 12), 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 9th day of July, 1956,

ORDERED that Plenary Retail Consumption License C-1, issued for the 1956-57 licensing period by the Township Committee of the Township of Greenwich to William Burt, Jr., t/a Burt's Cafe, 66 Repauno Avenue, Greenwich Township (Gloucester County), be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 8:00 a.m. July 16, 1956, and terminating at 8:00 a.m. August 10, 1956.

WILLIAM HOWE DAVIS
Director.

9. MINIMUM CONSUMER RESALE PRICE - NOTICE CONCERNING FILINGS FOR MALT ALCOHOLIC BEVERAGES - TIME EXTENDED.

In a Notice dated July 27th, it was indicated that the Division was endeavoring to effect minimum consumer resale price filings for malt alcoholic beverages by October 1, 1956 and that the prices should be filed with this Division by August 20, 1956.

Numerous policy questions and mechanical difficulties have arisen making it physically impossible to meet this time table. Accordingly, the schedule has been revised so as to make the minimum consumer resale prices for malt alcoholic beverages effective on November 1, 1956. The last day for filing such prices will be September 20, 1956.

WILLIAM HOWE DAVIS
Director.

Dated: August 8, 1956.

10. STATE LICENSES - NEW APPLICATIONS FILED.

Anders Beverage Co., Inc.

14-16-18 Grove Terrace, Irvington, N.J.

Application filed August 16, 1956 for transfer of State Beverage Distributor's License SBD-34 from William Paul Anders, t/a Anders Beverage Co., 14-16-18 Grove Ter., Irvington, N.J.

Popper Morson Corp.

48-52 Essex St., Jersey City, N. J.

Application filed August 16, 1956 for transfer of Warehouse Receipts License WR-1 from Samuel Billik, Max Holtz, Irving Rice, Joseph Kanengiser, Morris R. Sprung and Joseph Billik, 48-52 Essex St., Jersey City, N.J.

Popper Morson Corp.

48-52 Essex Street & 41-47 Morris Street, Jersey City, N.J.

Application filed August 16, 1956 for transfer of Plenary Wholesale License W-40 from Samuel Billik, Max Holtz, Irving Rice, Joseph Kanengiser, Morris R. Sprung and Joseph Billik, 48-52 Essex Street & 41-47 Morris Street, Jersey City, N.J.

Popper Morson Corp.

38-40, 42-44-46, 48-52 Essex St. & 41-47 Morris St., Jersey City, N.J.

Application filed August 16, 1956 for transfer of Rectifier and Blender License R-4 from Samuel Billik, Max Holtz, Irving Rice, Joseph Kanengiser, Morris R. Sprung and Joseph Billik, 38-40, 42-44-46, 48-52 Essex St., Jersey City, N. J.