

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

BULLETIN 1334

April 11, 1960.

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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.

BULLETIN 1334

April 11, 1960.

1. APPELLATE DECISIONS - BERTRIP LIQUORS, INC. v. BLOOMFIELD.

Bertrip Liquors, Inc.,)	
Appellant,)	On Appeal
v.)	CONCLUSIONS AND ORDER
Town Council of the Town)	
of Bloomfield,)	
Respondent.)	

Steelman, Lafferty & Rowe, Esqs., by James L.R. Lafferty, Esq.,
Attorneys for Appellant.
George B. Welle, Esq., Attorney for Respondent.
Joseph Slifkin, Esq., Attorney for Forest Hill Lodge and Alexander J.
Kuda, Objectors.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the denial of appellant's application to transfer its plenary retail distribution license D-5 from 16 Orange Street to 61 Belleville Avenue, Bloomfield. The petition of appeal alleges that said action constituted an arbitrary and unreasonable abuse of the discretionary powers vested in the respondent. The answer denies said allegation.

"The testimony herein discloses that effective June 1, 1959, respondent granted a person-to-person transfer to appellant of License D-5, which had been held continuously since at least 1941 by one Davis for 16 Orange Street; that respondent thereafter granted appellant's application for a renewal of said license at 16 Orange Street for the 1959-60 licensing year and that respondent (as required by Rule 8 of State Regulation No. 6) scheduled a public hearing on appellant's pending application for a transfer of its renewed license to 61 Belleville Avenue after it received a written objection to said application. The evidence further discloses that at the public hearing held on June 15, 1959, a petition containing the names of more than forty persons, who stated that they objected to the transfer, was presented to respondent; that no witnesses were sworn, but that Francis J. Tripucka (president of appellant corporation) was permitted to argue in favor of the transfer and Charles R. Giessen (president of Forest Hill Lodge) and Alexander J. Kuda and their respective attorneys were permitted to argue against the transfer, and that at the conclusion of the hearing a resolution to transfer the license from 16 Orange Street to 61 Belleville Avenue was defeated when a roll call showed the following: Messrs. Steinman and Soriano voting 'aye;' Messrs. Lintott, Russoman, Fisher and Scott voting 'nay' and Mrs. Jewkes not voting.

"The premises known as 16 Orange Street are located in the Watsessing section of Bloomfield. They are approximately one and one-half miles from the premises known as 61 Belleville Avenue, located in a shopping center in the Forest Hill section of Bloomfield.

"At the first hearing held herein Francis Tripucka testified that, although appellant holds the only plenary retail distribution license issued in the Watsessing section, there are at least three

plenary retail consumption licenses (one of which has the broad package privilege) in close proximity to 16 Orange Street, and that the Watsessing section is deteriorating as a business area since completion of the Garden State Parkway and the recent removal of the General Electric plant. He further testified that the store known as 61 Belleville Avenue is one of eleven stores located in the shopping center and that there is need for the transfer of the license to said premises, particularly because the shopping center is surrounded by the Forest Hill Manor Apartments which, according to the testimony of the resident manager thereof, has 816 housing units and accommodates about 2600 people. On behalf of appellant, three persons who reside in the Forest Hill Manor Apartments testified that they favor the transfer of the license because they could shop more conveniently for liquor and because many women do not wish to enter a tavern. On behalf of appellant, another witness testified that he interviewed about 130 residents of said Apartments and that 'most people seemed to be glad to have it come in because they wouldn't have so far to walk.'

"At said hearing appellant called as witnesses Councilman-at-Large Walter S. Steinman and Councilman Jack Soriano who had voted in favor of the resolution to grant the transfer. Mr. Steinman testified that, in his opinion, there has been a general downgrade in business activities in the Watsessing section since completion of the Garden State Parkway and the vacation of the General Electric premises; that the Watsessing section is now excessively served and that there is need for another distribution license in the Forest Hill section which is now inadequately served in comparison with the Watsessing section. The testimony of Mr. Soriano was substantially the same as the testimony given by Mr. Steinman.

"At said hearing the only witness called by respondent was Assistant Tax Collector Francis X. Murray who testified as to the number of apartment houses and industrial plants in the Watsessing section and as to the garden apartments in the Forest Hill section which he described as generally residential in character.

"At said hearing Alexander J. Kuda testified that since October 1958 he has operated a delicatessen store, for which he holds a limited retail distribution license, at 63½ Belleville Avenue (one of the eleven stores at the shopping center to which appellant seeks to transfer its license). Charles R. Giessen (president of Forest Hill Lodge) testified that his corporation has held a plenary retail consumption license for the past eight years at 19 Belleville Avenue, which is about 700 feet from said shopping center. He further testified that his corporation sells package goods in the public barroom; that it has a station-wagon to make deliveries and that it has delivered packages of alcoholic beverages to persons residing in the Forest Hill Manor Apartments.

"At said hearing there was introduced into evidence, by consent, a map from which it appears that, in addition to the licensed premises hereinbefore mentioned, three plenary retail consumption licenses, two limited retail distribution licenses and one plenary retail distribution license have been issued for premises in the Forest Hill section. All of these premises are within a radius of 2000 feet of said shopping center. The premises for which the plenary retail distribution license has been issued is within a radius of 1800 feet of said shopping center.

"After reading the briefs submitted, reviewing the evidence and examining the exhibits, it was deemed impossible to decide, upon the record presented, whether appellant had sustained the burden of proof of establishing that respondent's action constituted an abuse of discretion, particularly because the extract from the minutes of the meeting held on June 15, 1959, failed to set forth the reasons which motivated the members of the Town Council to vote for or against the resolution to transfer the license. Accordingly, all attorneys were notified

that a supplemental hearing would be held on October 15, 1959, solely for the purpose of taking the testimony of the four members who voted against said resolution.

"At the supplemental hearing the four members of the Town Council testified.

"Mayor Donald H. Scott testified that he voted against the resolution because, in his judgment, the section to which the applicant wished to move was adequately served. On cross-examination he said he recalled the written objection, the verbal objections on behalf of two licensees and the petition of objection and that, in voting against the resolution, he relied upon any matters that were presented and his own knowledge of the section and its needs and character.

"Councilman Joe D. Lintott testified that 'the reasons for my vote to deny the application were based upon the character of the neighborhood to which the transfer was to made, because of my knowledge of six licensees in Bloomfield in the immediate area and two other licensees close by in the Town of Belleville and because I felt that there were sufficient licensees in the area to adequately serve the population.'

"Councilman Joe V. Russoman testified that he voted against the resolution because he felt that the section was served sufficiently by the present licensees. On cross-examination he testified that he based his opinion upon his personal knowledge of the Town and on part of what was said at the meeting.

"Councilman Henry V. Fisher testified as follows:

'After hearing all the statements that were made that night and with my knowledge of the area acquired through the years of residence in Bloomfield, the fact that the applicant produced no evidence of any need in that area, it was my considered opinion that the area is well supplied with liquor sources.'

"On cross-examination he testified that he relied to a slight extent upon the petition and upon the objections of the two licensees who presented their arguments at the meeting.

"After the conclusion of the supplemental hearing, additional letters in lieu of briefs were submitted by the attorneys for the respective parties.

"It has been repeatedly indicated that, in all fairness, a local issuing authority should state the reasons for its decisions, but such failure is not fatal. Since this is a trial de novo, appellant has been accorded its full day in court. Haba Realty Corp. v. Long Branch, Bulletin 984, Item 1.

"A transfer of a liquor license to other premises is not an inherent or automatic right. The issuing authority may grant or deny the transfer in the exercise of reasonable discretion. If denied on a reasonable ground, such action will be affirmed. Fafalak v. Bayonne, Bulletin 95, Item 5; VanSchoick v. Howell, Bulletin 120, Item 6; Larion, Inc. v. Atlantic City, Bulletin 1306, Item 1, and cases therein cited.

"On behalf of appellant it is argued that the transfer was denied to protect the financial interests of the two licensees who appeared at the hearing held by the Town Council and that the members of the Town Council improperly relied upon their personal knowledge of the section, citing Izenberg v. Board of Adjustment, 35 N.J. Super 583.

"As to the first contention, it is clear that a local issuing authority may not deny a transfer merely to protect the financial interests of another licensee. However, after carefully considering the evidence given by the six members of the Town Council, it appears that the two members who voted in favor of the resolution believed that there was need for an additional distribution license in the Forest Hill section and that the four members who voted against the resolution believed that no such need existed. This clearly is a question upon which reasonable men may differ. There is not the slightest intimation that any member of the Council was improperly motivated and little, if any, evidence that the four who voted against the resolution gave any serious consideration to the financial interests of the two objectors. In determining whether a plenary retail distribution license should be issued or transferred, a local issuing authority may properly take into consideration the number of retail consumption licenses existing in the vicinity. Colonna v. Montclair, Bulletin 39, Item 8; Hyman v. Howell, Bulletin 1039, Item 3. This case is distinguished on its facts from The Great Atlantic and Pacific Tea Company v. Franklin et al., Bulletin 1288, Item 2, wherein the area in question was of a different character, and the nearest distribution license was 1.3 miles from the premises to which transfer was sought. The present case is very similar in its facts to Willner's Liquors v. Irvington, Bulletin 1192, Item 2, wherein the action of respondent denying the transfer was affirmed.

"As to the second contention, the Izenberg case is concerned with the propriety of the record required to be made in an application for a zoning variance under R.S. 40:55-39. It cannot be seriously contended that the members of a local issuing authority may not rely upon their personal knowledge of a section of the municipality to which a transfer is sought. See R.S. 33:1-24 and 26. In fact, Rule 10 of State Regulation No. 6 provides that no hearing need be held if the issuing authority, on its own motion, after the requisite statutory investigation, shall have determined not to grant the transfer applied for. Such a determination could be based only upon the personal knowledge of the members of the issuing authority.

"After reviewing all the evidence and the exhibits herein and after considering the briefs and arguments presented, I conclude that appellant has failed to sustain the burden of proof in establishing that the action of respondent was erroneous and recommend, therefore, that an order be entered affirming the action of respondent and dismissing the appeal. Biscamp v. Twp. Council of the Twp. of Teaneck, 5 N.J. Super. 172 (App.Div. 1949); Hickey v. Division of Alcoholic Beverage Control, 31 N.J. Super. 114 (App. Div. 1954); Willner's Liquors v. Irvington, supra; Larilon, Inc. v. Atlantic City, supra."

Pursuant to the provisions of Rule 14 of State Regulation No. 15, written exceptions to the Hearer's Report and written argument in respect thereto were filed with me by the attorneys for appellant and written answering arguments were filed with me by the attorney for respondent and attorney for the objectors.

Having carefully considered the entire record, including the evidence, exhibits, briefs, Hearer's Report and exceptions and answering arguments pertaining thereto, I concur in the conclusions of the Hearer and adopt them as my conclusions herein. I shall enter an order in accordance with the recommendation.

Accordingly, it is, on this 9th day of March 1960,

ORDERED that the action of respondent be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary
Proceedings against

Tube Bar, Inc.
12 Tube Concourse
Jersey City, New Jersey

Holder of Plenary Retail Consumption
License C-184 for the 1958-59 and
1959-60 licensing years, issued by
the Municipal Board of Alcoholic
Beverage Control of the City of
Jersey City.

O R D E R

BY THE DIRECTOR:

On July 7, 1959, the defendant's license was suspended for twenty-five days. See Bulletin 1292, Item 4. Pending defendant's appeal to the Superior Court, Appellate Division, the suspension was stayed by the court. On February 25, 1960, the suspension was affirmed and it may, therefore, now be reimposed.

Accordingly, it is, on this 8th day of March, 1960,

ORDERED that the twenty-five day suspension heretofore ordered against Plenary Retail Consumption License C-184 for the 1959-60 licensing year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Tube Bar, Inc., for premises 12 Tube Concourse, Jersey City, be and the same is hereby reimposed, commencing at 2:00 a.m., Monday, March 14, 1960, and terminating at 2:00 a.m., Friday, April 8, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (ARRANGING FOR RENTING OF ROOMS FOR PURPOSE OF ILLICIT SEXUAL INTERCOURSE) - PERMITTING OBSCENE LANGUAGE AND CONDUCT - CONDUCTING BUSINESS AS A NUISANCE - LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary
Proceedings against

Carl Charles Yannarelli & Ralph Loffredo
t/a George's Tavern
22 Hamilton Street
Paterson 2, New Jersey

CONCLUSIONS

AND

ORDER

Holders of Plenary Retail Consumption
License C-190, issued by the Board of
Alcoholic Beverage Control for the
City of Paterson.

Joseph J. Cappa, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charge:

"On September 11, 12, 16, 17, 18, 19, 26 and 27, 1959,
you allowed, permitted and suffered your licensed

place of business to be conducted in such manner as to become a nuisance, viz., in that you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises; allowed, permitted and suffered the making of arrangements to obtain and to provide rooms and accommodations for male and female persons to engage in acts of illicit sexual intercourse and acts of perverted sexual relations; allowed, permitted and suffered females on your licensed premises to solicit male patrons and to make overtures to male patrons for illicit sexual intercourse and acts of perverted sexual relations; allowed, permitted and suffered the making of offers to procure females for male patrons for the purpose of illicit sexual intercourse and acts of perverted sexual relations; allowed, permitted and suffered unescorted females frequenting your licensed premises to make overtures to and solicit male patrons to purchase numerous drinks of alcoholic beverages for consumption by them and others; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

Two ABC agents (hereinafter referred to as Agent R and Agent S) entered defendants' licensed premises at 11:50 p.m. on September 11 and remained there until 1:25 a.m. on September 12, 1959. During the time the said agents remained on the premises, two females (referred to as Ruth and Dee Dee) ordered drinks of alcoholic beverages from the bartender (subsequently identified as George Mardo) and unauthorized payment therefor was taken from agents' money lying on the bar. Both females engaged in filthy conversation pertaining to engaging in sexual relations. George served several drinks to Mike (who later assumed duties of bartender) which were ordered by Dee Dee and payment was taken from Agent R's money. During the agents' stay in the premises the two females aforementioned continuously used filthy language (repetition of which will serve no useful purpose) which could be heard throughout the barroom. Neither George nor Mike made any attempt to stop such behavior.

The two agents aforementioned again visited defendants' licensed premises on September 16, 1959, at which time George, Mike, Ruth and a female called Betty were present. Betty requested the agents to buy a drink for her and at Agent R's direction, Mike served both Betty and Ruth a shot of whiskey. Ruth informed the agents that Betty would engage in illicit sexual intercourse with them and her charge was \$20 each and that she (Ruth) would make arrangements to obtain a room upstairs in the building wherein the licensed premises is located for such purposes. The agents suggested a date for the following Friday night (September 18) which caused Betty to exclaim in a loud voice her disappointment in having to wait so long. Mike poured drinks for the agents and then asked the agents to treat the girls with which request Agent R complied. At about 12:30 a.m. (September 17) Ruth called George who had taken over behind the bar and after a whispered conversation returned to the agents and told them she had made arrangements with George and that they had nothing to worry about. The agents told Mike who was seated at the patron's side of the bar about their date with Betty to engage in sexual relations at a cost of \$20. The agents then informed George about their date with Betty and that Ruth was making arrangements to use a room upstairs to which George said: "If Ruth said so, it's O.K. She comes in here all the time. For you guys, I'll supply the room." At about 1:20 a.m. the agents left after informing Betty and George that they would see them on Friday night. On numerous occasions during the time the agents were in the licensed premises, the females engaged in filthy conversation with various patrons.

On Friday, September 18, the same agents entered defendants' premises and observed a man called "Joe" acting as bartender while George and Mike sat at the patron's side of the bar. George approached

the agents and when the latter inquired about their date with Betty, George stated that Betty and Ruth would be late. George agreed to permit the agents to have a room upstairs to engage in sexual intercourse with Betty and when asked whether it was necessary to sign a register, George replied that he had signed Betty for the whole week and, inasmuch as the rooms were reached by a separate entrance and had nothing to do with the licensed premises, she could take men upstairs without any fear on the part of the licensee. About 8:45 p.m. Joe answered the telephone and when he told George that Ruth would be in later, George informed him that the agents were waiting for her. The agents stated to Joe that they were waiting for Ruth and Betty for the purpose of engaging in sexual intercourse with them in a room above the licensed premises, to which Joe nodded his head in the affirmative and remarked: "They were in last night and Ruth was loaded." The agents left the premises for a short time and when they returned were told by George that the girls had not come into the premises. The agents then left, agreeing to George's suggestion that they call him the following night to ascertain if the girls were there.

On the following night (September 19) the agents returned to the defendants' premises at which time they were greeted by Ruth who apologized for Betty's absence on the previous night and stated that she would inquire of George if there may be another girl available. Ruth walked over to George who was seated at the bar and after a short conversation, Ruth returned to the agents and stated George expected a couple of girls later that evening. Then the agents spoke to George about Betty and he stated that he didn't know where she was and immediately walked away to join a female companion at the bar.

At about 10:05 p.m. on September 26, Agent S entered the defendants' premises and observed a man called "Corky" (Joseph Simon) tending bar and also George seated at the bar with a female companion. Ruth and Dee Dee were also seated next to one another at the bar. Agent S asked George where Betty was and remarked that he (Agent S) had been carrying \$20 around with him to pay Betty to engage in illicit sexual relations. George whispered to Agent S to not mention Betty's name as she was the bartender's wife and that Agent S should not bother with her while the bartender was present. Agent S placed money on the bar and Ruth pointed to the empty shot glasses belonging to her and Dee Dee and Corky filled them and Ruth directed him to take the price of the drinks from Agent S's money on the bar. George told Agent S to ask Dee Dee to go upstairs with him. Ruth came over and sat next to Agent S at which time George told her to see what she could do with Dee Dee for Agent S. Ruth called Dee Dee over and after some filthy conversation between the girls, Dee Dee went back to her seat and a short time left the premises in the company of a male patron. Ruth remained with Agent S drinking constantly and was served continuously by the bartender at the agent's expense and without his consent. George left the premises with his female companion for a short period of time and when he returned alone, he flexed his muscles and shouted that he was going to kill three ABC agents that night and looking at the agent in the premises who had preceded Agent S into the premises, George whispered to Agent S that he believed him to be an agent. George then used filthy and indecent language about a woman seated with a man and when Ruth remonstrated with him for his demeanor, George, in a loud voice, directed a filthy remark at her and she replied in kind. Simon, who was tending bar, began to sing an indecent song. Agent S told George that he was tired of fooling around and asked him if he obtained a married woman whose husband was working, could he rent a room upstairs for illicit relations, when George stated that it would cost him nothing for the room because he was a good customer. Agent S went to the telephone and feigned making a call and then told George that he spoke to a female who was coming to the licensed premises. George called Ruth who told him to put \$10 on the bar for drinks and that when they had finished drinking she would accompany him upstairs and engage in sexual intercourse and perverted sexual relations with him. Agent S refused her proposition and said he was going upstairs to wait for the woman whom he had called

on the telephone. Agent S left the licensed premises and entered a doorway to the left of the front entrance of the bar, proceeded up the stairs and entered a room located directly over the barroom which contained a single bed. Shortly after 1:05 p.m. when Agent S opened the door in response to a knock, two ABC agents, a police officer and George stood in the doorway. George said: "Tell these guys you were drunk and you weren't feeling good, so I let you go up and lay down on the bed, right?" One of the agents then asked what Agent S was doing there and the latter stated he was waiting the arrival of a girl friend to engage in sexual intercourse and that George did not charge him for the use of the room because he (Agent S) had spent a "lot" of money at the bar. George became very loud and boisterous and berated the agent and directed filthy invectives at him. George and Ruth, when questioned by the agent denied everything that the agents alleged happened in the defendants' licensed premises.

The attorney for the defendant-licensees, in attempted mitigation of penalty, alleged that the licensees are substantial business men engaged in other businesses and both of them enjoy a good reputation. The defendants contend that George Mardo is one of the owners of the building was not employed by them and had no right to tend bar. However, after the agents identified themselves, George stated he was manager of the defendants' premises but receives no compensation for his services. Furthermore, Joseph Simon, the bartender, stated he was hired by George at a salary of \$75 per week.

The facts herein disclosed a shocking lack of appreciation for and understanding of fundamental decencies and proprieties in the operation of defendants' licensed business and their license might well warrant revocation. I have taken into consideration the entry of a confessional plea prior to the hearing date and the fact that the licensees' record is clear of any prior adjudicated violation. Under the circumstances, I shall suspend the license for a period of one hundred and eighty days.

Accordingly, it is, on this 10th day of March 1960,

ORDERED that Plenary Retail Consumption License C-190, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Carl Charles Yannarelli & Ralph Loffredo, t/a George's Tavern, for premises 22 Hamilton Street, Paterson, be and the same is hereby suspended for the balance of its term, effective 3:00 a.m., Monday, March 21, 1960; and it is further

ORDERED that any renewal or transfer of such license shall be and remain under suspension until 3:00 a.m., Saturday, September 17, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS. - AIDING AND ABETTING NON-LICENSEE TO EXERCISE PRIVILEGES OF LICENSE - SALE BEYOND TERMS OF LICENSE - PERMITTING PREMISES TO BE USED IN FURTHERANCE OF ILLEGAL ACTIVITY (GAMBLING) - FRAUD IN APPLICATION (FAILURE TO REVEAL PRIOR SUSPENSIONS) - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Julius Uszenski
t/a Royal Gardens
990 East Hazelwood Avenue
Rahway, New Jersey

CONCLUSIONS

AND

ORDER.

Holder of Plenary Retail Consumption
License C-9, issued by the Municipal
Board of Alcoholic Beverage Control
of the City of Rahway.

James T. Kirk, 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 charges alleging that he (1) sold alcoholic beverages outside of and beyond the terms of his license; (2) aided and abetted a non-licensee, not the holder of a special permit, to sell alcoholic beverages, in violation of R.S. 33:1-52; (3) allowed, permitted and suffered his licensed premises to be accessible to premises upon which gambling was being carried on in furtherance of such illegal activity, resulting in conviction in a municipal court for violations of a municipal ordinance, in violation of Rule 4 of State Regulation No. 20, and (4) failing to reveal in application for current plenary retail consumption license that license had been suspended on two prior occasions by local issuing authority when defendant and one Edward Maciorowsky held a license as partners, such concealment being in violation of R.S. 33:1-25.

It appears that on August 29, 1959 defendant provided food at a cost of \$4.50 per person and beer at \$20.00 for each one-half keg consumed, to a social club, for consumption at a social affair held in his picnic grove near his licensed premises. Although no special permit was obtained from this Division for the club to sell alcoholic beverages at the picnic, the club sold tickets for the occasion to members at a price of \$6.25 entitling the purchasers to food and beverages. Such arrangement is a sale as defined in R.S. 33:1-1(w), which provides in part:

"Every delivery of an alcoholic beverage
otherwise than by purely gratuitous title,
including....serving with meals...."

Cf. Re Renner, Bulletin 115, Item 4; Re Gross, Bulletin 863, Item 11. Such sale for resale constitutes a violation of R.S. 33:1-2, and the aiding and abetting thereof a violation of R.S. 33:1-52.

During the afternoon that the aforesaid picnic was in progress, an ABC agent (not a member of the social club) who had access to the grounds by reason of having purchased a ticket for the occasion, observed various persons engaged in card games for money. The local police after being notified that gambling was taking place, apprehended those engaged in the card games for money and all were fined by a local magistrate for violation of a local ordinance.

An examination of the license application disclosed that defendant had concealed the fact that while the holder of a liquor license as a

partner with another, their license had been suspended on two prior separate occasions.

Defendant has a prior adjudicated record. The local issuing authority suspended defendant's individual license or the license he held with one Edward Maciorowsky as a partner on four occasions. Effective October 2, 1939 the license held by defendant and Edward Maciorowsky was suspended for five days for an "hours" violation; effective April 21, 1941 the same license was suspended for ten days for sale of alcoholic beverages to a minor; effective October 15, 1952 defendant's license was suspended for five days for an "hours" violation and effective June 17, 1957 defendant's license was suspended for twenty days for permitting foul language, hindering an investigation, "hours" violation and failure to afford proper view into premises.

Inasmuch as three of the prior violations are dissimilar in nature and happened more than five years ago, they will not be considered in fixing the penalty herein. For the violations committed during 1957 aforementioned, all dissimilar in character, five days will be added to the suspension herein.

Under the circumstances, I shall suspend defendant's license on Charges 1 and 2 for five days (Re John A. Gross Corp., Bulletin 863, Item 11); on Charge 3 for ten days (Re Benevolent & Protective Order of Elks #1422, Bulletin 1099, Item 7); on Charge 4 for ten days (Re Mitchell Bulletin 1248, Item 3) and shall add five days because of the last adjudicated violation, 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 10th day of March, 1960,

ORDERED that Plenary Retail Consumption License C-9, issued by the Municipal Board of Alcoholic Beverage Control of the City of Rahway to Julius Uszenski, t/a Royal Gardens, for premises 990 East Hazelwood Avenue, Rahway, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, March 21, 1960, and terminating at 2:00 a.m. Friday, April 15, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

5. SEIZURE - FORFEITURE PROCEEDINGS - INTERSTATE TRANSPORTATION OF TAXPAID ALCOHOLIC BEVERAGES - MOTOR VEHICLE AND ALCOHOLIC BEVERAGES RETURNED TO UNWITTING VIOLATOR UPON APPLICATION IN ADVANCE OF STATUTORY HEARING AFTER OBTAINING REQUISITE PERMITS FROM STATE OF DESTINATION.

In the Matter of the Seizure)	
on September 29, 1959 of a)	Case No. 10,103
quantity of whiskey and a)	
Cadillac convertible on the)	On Hearing
New Jersey Turnpike, at Mile-)	
post 41, in the Township of)	CONCLUSIONS and ORDER
Laurel, County of Burlington)	
and State of New Jersey.)	

James Logan, Jr., Esq., by Emerson L. Darnell, Esq., Attorney
for Alexander Thomas.
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 a quantity of taxpaid alcoholic beverages and a Cadillac convertible, described in a schedule attached hereto, seized on September 29, 1959 on the New Jersey Turnpike, at Mile Post No. 41, Mount Laurel, 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 in behalf of Alexander Thomas, who sought return of the alcoholic beverages and the motor vehicle.

It appears that on the above date and location a New Jersey State Trooper halted the Cadillac convertible during his routine patrol of traffic on the highway. The trooper ascertained that the registered owner of the motor vehicle is John T. Frails and was being operated by Alexander Thomas, a resident of New York City. When the trooper discovered the alcoholic beverages in the car and that Thomas did not have a New Jersey license or permit to transport alcoholic beverages in this state, nor an invoice or bill for the alcoholic beverages as required by Rule 2, of State Regulation No. 18, the trooper took possession of the alcoholic beverages and motor vehicle pending determination of the source and destination of such alcoholic beverages. Thereafter such property was turned over to ABC agents.

Thomas told the trooper that he had purchased the alcoholic beverages from a retail licensee located in Washington, D.C. for his personal use and that of his friends. Thomas did not have a permit to import the alcoholic beverages into New York, in accordance with the requirements of that state. Bulletin 1204, Item 8. Rule 2 hereinbefore referred to governing the transportation of alcoholic beverages through New Jersey for delivery in another state requires the transporter to establish that such alcoholic beverages may lawfully be delivered to their destination. The transportation of alcoholic beverages in this state, absent a permit, license, way bill, and authority to import, is unlawful and subjects the transporter to criminal prosecution.

There has now been presented two permits issued by the New York State Liquor Authority to Alexander Thomas authorizing the importation into that state of 30 gallons of alcoholic beverages, described by size of containers, and two receipts for New York State tax on such alcoholic beverages, referred to as arriving from Washington, D.C. issued by the Commodities Tax Bureau of the New York State Department of Taxation and Finance. Hence the delivery of the alcoholic beverages in question is now in full compliance with the law of that state and that of New Jersey insofar as seizure proceedings are concerned. No opinion is expressed as to whether these permits obtained after the event affect the criminal proceedings, which are within the sole jurisdiction of the Prosecutor of Burlington County.

Accordingly, it is DETERMINED and ORDERED that if on or before the 17th day of March, 1960, Alexander Thomas pays the costs incurred in the seizure and storage of the motor vehicle and alcoholic beverages as listed in Schedule "A", attached hereto, such motor vehicle and alcoholic beverages will be returned to him.

WILLIAM HOWE DAVIS
DIRECTOR

Dated: March 7, 1960

SCHEDULE "A"

- 24 - pint bottles of whiskey
- 240 - $\frac{1}{2}$ pint bottles of whiskey
- 12 - $\frac{4}{5}$ pint bottles of whiskey
- 1 - Cadillac convertible, Serial and Engine No. 5562-60714, New York Registration BN4012

6. AUTOMATIC SUSPENSION - SALE TO MINOR - SUSPENSION STAYED PENDING ACTION BY LOCAL ISSUING AUTHORITY IN DISCIPLINARY PROCEEDINGS.

Auto. Susp. #184 -)

In the Matter of a Petition to)
Lift the Automatic Suspension of)
License C-3 issued by the Mayor)
and Borough Council of the Borough)
of Sayreville to)

On Petition

O R D E R

BENJAMIN OSKIERKO & GENEVIEVE OSKIERKO)
t/a WATER TOWER LIQUORS INN)
Bordentown Ave. (Plot 5, Block 33))
Sayreville (Middlesex County), N. J.)

BY THE DIRECTOR:

The petition herein discloses that on March 7, 1960, Benjamin Oskierko was fined the sum of \$50 (which fine was suspended) and \$10 costs in the Municipal Court of the Borough of Sayreville after he pleaded non vult to 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 Benjamin Oskierko & Genevieve Oskierko. R.S. 33:1-31.1. Because the Division was informed that the licensees intended to apply for a stay, the license has not yet been picked up.

Disciplinary proceedings have not yet been instituted because of said sale. A supplemental petition to lift the automatic suspension may be filed with me by the licensees after the disciplinary proceedings have been decided. In fairness, I conclude that at this time the effect of the automatic suspension should be temporarily stayed. Re Bednarz, Bulletin 1294, Item 8.

Accordingly, it is, on this 10th day of March 1960,

ORDERED that the aforesaid automatic suspension be stayed pending the entry of a further order herein.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Harry Stillwaggon)
t/a Stillwaggon's)
William Street)
Piscataway Township)
PO New Market, N. J.,)

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption)
License C-12, issued by the Township)
Committee of the Township of Piscataway.)

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

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he posses

on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe the contents, in violation of Rule 27 of State Regulation No. 20.

On January 18, 1960, an ABC agent tested defendant's open stock of liquor and seized a number of bottles for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of four of such bottles were higher in solids and darker in color than the contents of genuine bottles of the labeled brands.

Defendant has a prior adjudicated record. Effective February 9, 1959, his license was suspended by the Director for five days for delivery of alcoholic beverages without a bona fide invoice. Re Stillwaggon, Bulletin 1268, Item 8. I shall suspend defendant's license for the minimum period of twenty days imposed in cases involving four bottles (Re Willow Cafe & Restaurant, Inc., Bulletin 1314, Item 9), 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 twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 10th day of March 1960,

ORDERED that plenary retail consumption license C-12, issued by the Township Committee of the Township of Piscataway to Harry Stillwaggon, t/a Stillwaggon's, for premises on William Street, Piscataway Township, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, March 15, 1960, and terminating at 2 a.m. Monday, April 4, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)	
)	
Zinnia, Inc.)	CONCLUSIONS
9-11 W. Main Street)	
Maple Shade, New Jersey,)	AND
)	
Holder of Plenary Retail Consumption License C-2, issued by the Maple Shade Township Committee.)	ORDER
-----)	

Leo J. Berg, Esq., Attorney for Defendant-licensee
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 November 20, 1959, an ABC agent tested defendant's open stock of liquors and seized a bottle of "Bottled in Bond Old Grand Dad Kentucky Straight Bourbon Whiskey 100 Proof" for further analysis by the Division's chemist. The latter's analysis disclosed that the contents of the bottle in question was low in proof when compared with a genuine sample of the labeled brand.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum penalty of ten days where one bottle is involved. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Gaggis & Paskalis, Bulletin 1326, Item 11.

Accordingly, it is, on this 14th day of March 1960,

ORDERED that plenary retail consumption license C-2, issued by the Maple Shade Township Committee to Zinnia, Inc., for premises 9-11 W. Main Street, Maple Shade, be and the same is hereby suspended for five (5) days, commencing at 2 a.m. Monday, March 21, 1960, and terminating at 2 a.m. Saturday, March 26, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - CONTRACEPTIVES - UNQUALIFIED EMPLOYEES - EMPLOYING MINOR AS BARTENDER - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Joseph G. Hill
t/a White Owl Inn
7304 River Road
Pennsauken Township
P.O. Delair, New Jersey

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption
License C-11, issued by the Pennsauken
Township Committee.

Cahill and Wilinski, Esqs., by Robert Wilinski, Esq., Attorneys
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 Friday night November 13, 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., Mary Ann ---, age 17, Rosemary ---, age 17, Barbara Anne ---, age 17 and Gayle ---, age 18, 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 4, 7 and 13, 1959, you sold and possessed and allowed, permitted and suffered the sale and distribution and possession for the purpose of sale or distribution prophylactics against venereal disease and contraceptives and contraceptive devices in and upon your licensed premises or other premises used in connection therewith; in violation of Rule 9 of State Regulation No. 20.

- "3. On November 13, 1959, and prior thereto, you employed and allowed, permitted and suffered the employment in and upon your licensed premises of persons not bona fide residents of the State of New Jersey contrary to and in violation of Rule 4 of State Regulation No. 13.
- "4. On November 13, 1959, and prior thereto you employed and allowed, permitted and suffered the employment in and upon your licensed premises of persons under the age of twenty-one (21) years, contrary to and in violation of Rule 2 of State Regulation No. 13."

On November 4, 7 and 13, 1959, ABC agents purchased packs of contraceptives from a man in charge of the men's room of the defendant's licensed premises.

On November 13, 1959, ABC agents observed two females being served a pitcher of beer from which each poured a drink for herself and also observed two other females each being served a mixed drink which contained an alcoholic beverage. After the females consumed part of their drinks, the agents identified themselves and after questioning the females, ascertained that three of them were 17 years of age and the other was 18 years old.

The agents checked the members of the band, three of whom were non-residents and were minors. None possessed the required special permits to be employed on licensed premises.

Defendant has a prior adjudicated record. It appears that in 1946 a license held by defendant and Charles F. Hill, Jr., was suspended for three days by the local issuing authority for permitting a lewd show and employing an unqualified person on the licensed premises. After entry of a confessional plea the suspension imposed was remitted. Thereafter on three separate occasions defendant's license was suspended by the local issuing authority for permitting females to be served at the bar in violation of a local ordinance. The first occasion for three days effective March 19, 1951; the second for five days, effective November 17, 1952 and the last occasion for ten days, effective February 25, 1953. Inasmuch as the 1946 record occurred more than ten years ago and the other dissimilar violations more than five years ago, I shall not consider them in fixing the penalty herein.

Under the circumstances appearing herein, considering the number of minors, three of whom were 17 years of age, and the other three violations, I shall suspend defendant's license for forty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty days.

Accordingly, it is, on this 14th day of March 1960,

ORDERED that Plenary Retail Consumption License C-11, issued by the Pennsauken Township Committee to Joseph G. Hill, t/a White Owl Inn, for premises 7304 River Road, Pennsauken Township, be and the same is hereby suspended for forty (40) days, commencing at 2:00 a.m., Wednesday, March 23, 1960 and terminating at 2:00 a.m., Monday, May 2, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary)
 Proceedings against)

Campbells Cafe, Inc.)
 t/a Campbells Cafe)
 219 Broadway)
 Long Branch, New Jersey,)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption)
 License C-34, issued by the Board of)
 Commissioners of the City of Long)
 Branch.)

ORDER

 Defendant-licensee, by Kennard W. Hildesheim, President
 William F. Wood, Esq., Appearing for Division of Alcoholic Beverage
 Control

BY THE DIRECTOR:

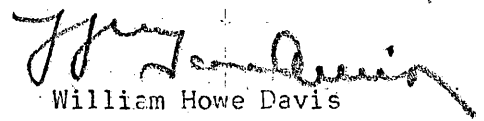
Defendant pleaded non vult to a charge alleging that it pos-
 sessed on its licensed premises an alcoholic beverage in a bottle bear-
 ing a label which did not truly describe its contents, in violation of
 Rule 27 of State Regulation No. 20.

On January 25, 1960, an ABC agent tested defendant's open stock
 of liquors and seized a 4/5 quart bottle of "Cutty Sark Blended Scots
 Whisky 86.0 Proof" for further analysis by the Division's chemist. The
 latter's analysis disclosed that the contents of the bottle in question
 was low in solids when compared with a genuine sample of the labeled
 brand.

Defendant has no prior adjudicated record. I shall suspend its
 license for the minimum penalty of ten days where one bottle is involved.
 Five days will be remitted for the plea entered herein, leaving a net
 suspension of five days. Re Gaggis & Paskalis, Bulletin 1326, Item 11.

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

ORDERED that plenary retail consumption license C-34, issued by
 the Board of Commissioners of the City of Long Branch to Campbells Cafe,
 Inc., t/a Campbells Cafe, for premises 219 Broadway, Long Branch, be
 and the same is hereby suspended for five (5) days, commencing at 2 a.m.
 Monday, March 21, 1960, and terminating at 2 a.m. Saturday, March 26,
 1960.


 William Howe Davis
 Director

New Jersey State Library