

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

September 25, 1961

BULLETIN 1410

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - COLLAZO v. ELIZABETH.
2. DISCIPLINARY PROCEEDINGS (Newark) - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 15 DAYS.
3. DISCIPLINARY PROCEEDINGS (Burlington) - CLUB LICENSE - SALE TO NON-MEMBERS - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 10 DAYS.
4. DISCIPLINARY PROCEEDINGS (Newark) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Berlin Twp.) - SALES TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Elizabeth) - HOSTESSES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Camden) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Camden) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
9. STATE LICENSES - NEW APPLICATION FILED

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

BULLETIN 1410

September 25, 1961

1. APPELLATE DECISIONS - COLLAZO v. ELIZABETH

FRANK COLLAZO, t/a DOWNTOWN TAVERN )	
& LIQUOR STORE, )	
Appellant, )	ON APPEAL
v. )	CONCLUSIONS
CITY COUNCIL OF THE CITY OF )	AND ORDER
ELIZABETH, )	
Respondent. )	

-----)  
Weiner, Weiner & Glennon, Esqs., by John T. Glennon, Esq.,  
Attorneys for Appellant.  
Raymond A. Leahy, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of the respondent whereby it suspended appellant's license for a period of twenty-five days, effective May 19, 1961, after finding appellant guilty in disciplinary proceedings of a charge alleging sale, service and delivery of alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20. Appellant's premises are located at 180A-182 Third Street, Elizabeth.

"Upon the filing of the appeal, an order dated May 18, 1961 was entered by the Director staying the effect of respondent's order of suspension pending determination of the appeal, R.S. 33: 1-31.

"The appellant in his petition of appeal alleges that the action of the respondent in finding him guilty of the violation in question was 'contrary to the weight of credible evidence adduced at the hearing in that the evidence of the witnesses produced by the city was conflicting and contradictory and that a case of guilt beyond a reasonable doubt was not made out...' Appellant further alleges 'that the verdict should be set aside for the reason that the city was unsuccessful in its endeavor to have admitted into evidence a pint bottle without identification and thus the board had no tangible evidence before it as proof of the sale of a pint of wine by Nicholas Collazo to Donald ---.'

"Police Officer Madorma testified that about 10 o'clock on the evening of September 15, 1960 as he approached a parked car he 'heard a bottle fall'; that three boys and two girls were in the car; that he picked up this empty wine bottle and when he looked inside the car he saw a beer bottle between Donald and a girl; that he questioned the occupants of the car about the purchase of the alcoholic beverages, at which time Donald and another youth told him that an elderly man had purchased 'the stuff for them'; that he then took them to police headquarters.

"Detective George Wycosky testified that on September 16, 1960 when he questioned Donald about the wine and the beer, Donald said he gave money to a man to make the purchase, but then changed part of his original story saying that he had given money to a man to get beer, but that he (Donald) purchased the wine from Nicholas Collazo (hereinafter referred to as Nicholas) at appellant's licensed premises; that on September 19, 1960 Nicholas came to police headquarters and when Donald identified him as the person who had sold him the wine, Nicholas denied same to be true.

"Donald testified that he was born October 30, 1944 (a copy of a birth certificate confirming said date was marked in evidence as exhibit R-1); that on the evening of September 15, 1960 he was questioned by Officer Madorma about a bottle of beer found in the car and a bottle of wine which he (Donald) had dropped outside the car; that he had informed the officer a man had purchased the bottle of wine and the bottle of beer for him because at the time he was on parole from a penal institution and was of the opinion that by telling the officer that an adult had purchased the alcoholic beverages, the officer 'was going to let him go'; that although the bottle of beer was purchased by a man for him, he, himself, had purchased the bottle of wine from Nicholas at the 'Downtown Liquor, Third Street'; that at first he told Detective Wycosky that a man had purchased both bottles in question but then told him the truth about the matter.

"Robert --- testified that on the night of September 15, 1960, he was the driver of the car when Officer Madorma questioned the occupants thereof about the bottles which had contained alcoholic beverages; that on the said evening he had stopped the car 'on Third Street between Bond and Pine' where Donald got out and returned about five minutes thereafter with a quart of beer; that they then drove up to Pine Street and after making a turn on Bond Street, he again stopped the car and Donald got out and shortly thereafter came back with a pint of wine; that he did not see where Donald had purchased the wine.

"Nicholas Collazo testified that on September 15, 1960 he was employed in appellant's licensed premises located on the corner of Magnolia Avenue and Third Street; that he has known Donald ever since he was a child and remembered him coming with his mother to the launderette which he (Nicholas) operated at one time; that prior to September 15, 1960, Donald and his uncle had come into appellant's liquor establishment and when he asked Donald what happened to him because he had not seen him for quite some time, the uncle answered that Donald was in Texas; that he never sold the bottle of wine to Donald and when questioned by Detective Wycosky about the wine, denied the sale thereof because he knew Donald was just a kid.

"The finding of guilt in the instant case must of necessity be predicated on the uncorroborated testimony of Donald. Officer Madorma's testimony is that as he approached the parked car occupied by Donald and his companions, and when he inquired about the beer bottle and the wine bottle, Donald contended that both items were purchased by an elderly man. Detective Wycosky testified that on September 16, 1960, he questioned Donald about the purchase of the wine and beer and at first Donald told him that the said items were purchased for him by a man. Detective Wycosky testified that upon further questioning, Donald then said the beer was purchased by a man but that he had purchased the wine at appellant's establishment. At the instant hearing, Donald repeated that the beer was purchased by a man but that he obtained the wine at appellant's licensed premises.

"Upon careful review of the uncorroborated testimony of Donald, it is apparent that the contradictory statements given by him to Officer Madorma and then at first to Detective Wycosky, have materially affected the credence to be attributed to Donald's testimony. Nicholas has maintained that he did not sell the bottle of wine to Donald, explaining the reason therefor that he has known Donald for a considerable time and was aware of his age.

"The charge of sale of alcoholic beverages to a minor is serious and the evidence in support thereof must be clear and convincing. While the record may give rise to grave suspicion that the violation may have been committed by an employee of appellant, such suspicion is not a proper substitute for proof. Re Freddie's Tavern, Inc., Bulletin 1033, Item 8. I conclude that the finding of guilt in this matter is not supported by a fair preponderance of the evidence. In view of said finding it is unnecessary to consider any other ground of appeal set forth herein.

"Under the circumstances, I recommend that the action of the respondent be reversed. Chase v. Washington Township, Bulletin 1272, Item 4; Royal Castle, Inc. v. Newark, Bulletin 1093, Item 2; Kurschner v. Newark, Bulletin 1081, Item 3; Smallheer v. Clifton, Bulletin 1059, Item 1."

No exceptions were taken to the Hearer's Report within the time limited by Rule 14, of State Regulation No. 15.

Having carefully considered the testimony and the memoranda filed by the attorneys for the respective parties herein, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 1st day of August 1961,

ORDERED that the action of respondent be and the same is hereby reversed.

WILLIAM HOWE DAVIS  
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 15 DAYS

In the Matter of Disciplinary Proceedings against )

CAL'S BAR, INC. )  
500 Broadway )  
Newark, New Jersey )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-523, for the 1960-61 and 1961-62 licensing years, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )

----- )  
Joseph D'Alessio, Esq., Attorney for Defendant-licensee, for Frank A. Calabrese, Esq., Attorney of Record

Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant entered a plea of not guilty to the following charge:

'On February 2, 1961, you, through a person acting as bartender on your licensed premises, failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation, inspection and examination at your licensed premises then and there being conducted by an Inspector of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of R.S. 33:1-35.'

"To substantiate the charge, the Division called as its witness the ABC agent who investigated defendant's licensed business.

"The testimony of the agent shows that at 2:20 p.m., Thursday, February 2, 1961, he visited defendant's licensed premises for the purpose of making a routine inspection; that he identified himself to Nicholas Tafaro, the bartender, and asked for the license application; that after perusing the application, he proceeded behind the bar and saw a brown paper bag resting on some cartons behind the cash register; that he was about three feet away from the bag, which was open, and 'I noticed several dollar bills, one-dollar bills, that were folded over in various ways in the bag, along with perhaps about a dozen white pieces of paper that were wrapped around something'; that he inquired of Tafaro, who was also three feet away from the bag, 'what was in the bag' and that Tafaro asked, 'What bag?'; that he proceeded toward the bag and pointed it out; that Tafaro grabbed the bag, rolled it up and said, 'It is my tips'; that he asked to see the bag and Tafaro, telling him it was none of his business, handed it to a patron, saying, 'Get this out of here'; that he (the

agent) said to Tafaro, 'Let me see what is in the bag or else you are in trouble, you are apt to be subject to a hindrance charge' and that Tafaro said, 'To hell with the charge, get that bag out of here, take off'. The agent further testified that the patron left with the bag and that when he (the agent) was about to leave, Tafaro said, 'Let's talk this over. We can straighten this out like gentlemen, regular fellows. The bag is mine. You don't have to report nothing. You don't have a thing'; and that he left the premises without knowing what the bag contained.

"On cross-examination, the agent testified that when he first saw the bag, he was about two feet away from it, and that the nearest he got to it was perhaps eight or nine inches; that the bag might have contained a small sandwich; that he had no idea what was in it and didn't have any suspicion or reason to believe that there was anything in the bag which shouldn't have been on the licensed premises and that he couldn't describe the man to whom Tafaro handed the bag.

"Witnesses for the defendant were Nicholas Tafaro and Arnold Mann, a patron.

"Tafaro testified in substance that on the date alleged, the agent, after searching the premises, asked him what was in the bag; that he said he didn't know, it was supposed to be a patron's lunch which was left with him while the patron went to the barber shop next door; that the patron came in when the agent was behind the bar and asked, 'Can I have my bag'; that when he handed over the bag the agent asked, 'What was in the bag' and that he said he didn't know; that there was no other conversation between him and the agent when the bag was given to the patron and that the patron walked out with the bag and the agent didn't go anywhere near him.

"On cross-examination, he testified that the bag was on the premises, 'It couldn't have been more than an hour or hour and a half'; that 'the bag was folded over and you couldn't look into it' because it is a four foot platform and the bag was on a box on the platform and that from the time he handed the bag to the patron and the patron left, he had no conversation with the agent. He denied that he said anything to the agent about fixing things up.

"Mann testified in substance that at about 2:00 p.m. on the date alleged, he went into defendant's tavern and asked Tafaro if he would keep his lunch while he went to the barber shop for a haircut; that his lunch consisted of a sandwich which he bought at a store three blocks away and was in a paper bag; that Tafaro put the bag behind the bar and he went to the barber shop; that he returned to the tavern between 2:30 and 3:00 o'clock; that he saw the agent behind the bar and he said, 'Nick, I'm ready to go; may I have my lunch?'; that Tafaro handed him the bag and he walked out; that when he asked for his lunch he was no more than a foot and a half from the agent and that, while he was on the premises, he heard no conversation between Tafaro and the agent and that the bag contained one sandwich, no bills, 'no money whatsoever in the bag. I had 65 cents in my pocket'.

"On cross-examination, he testified that he has known Tafaro for about five years; that he visits the tavern every other weekend; that before going to the tavern that day, 'I stopped in the barber shop. I saw it was empty. I wanted to eat the sandwich and perhaps

drink a bottle of beer. The barber chair was empty and so I figured I would get a haircut while the chair was empty and then go and get a bottle of beer with the sandwich'.

"I have carefully considered the testimony elicited herein and I find that Tafaro's version of what transpired on the date alleged is incredible. Admittedly, there was a bag on the back bar and counter and regardless of what it contained or whether it was closed or folded over, the agent had every right to inspect it and was about to do so when Tafaro grabbed it and handed it to Mann with instructions to remove it quickly from the licensed premises. Had the bag contained someone's lunch or even tips, as testified to by Tafaro, it is only reasonable to believe that he would have had no reluctance in showing it to the agent. Furthermore, it is unlikely that Mann would leave a sandwich with the bartender rather than bring it with him to the barber shop next door. According to his testimony, the barber chair being empty, he got a haircut and returned to the tavern. If Mann's testimony were to be given credence, considerable time must have been expended on the tonsorial work, for Tafaro testified that the bag was on the licensed premises for about an hour and a half before Mann claimed it. I find, on the contrary, that the testimony of the agent is highly credible and convincing and reflects what actually transpired during the course of his investigation of the licensed premises.

"Interference with an ABC agent in the performance of his assigned duties is a violation which strikes at the very heart of law enforcement and is appreciably aggravated when an attempt is made, as in this case, to dissuade the agent from reporting his findings.

"I conclude, therefore, from all the evidence that the Division has established the truth of the charge by a fair preponderance of the believable evidence and I recommend that an Order be entered adjudging the defendant guilty as charged and suspending its license for a period of fifteen days. Cf. Re Cherlin, Bulletin 1288, Item 3."

Written exceptions to the Hearer's Report and written argument with respect thereto were filed with me by defendant's attorney within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the transcript of the testimony, the Hearer's Report and the written exceptions and argument with respect thereto, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 31st day of July, 1961,

ORDERED that Plenary Retail Consumption License C-523, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Cal's Bar, Inc., for premises 500 Broadway, Newark, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m., Monday, August 7, 1961, and terminating at 2:00 a.m., Tuesday, August 22, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - SALE TO NON-MEMBERS - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against )

SCULLY-BOZARTH POST #1817, V.F.W. Southside River Bank Burlington (City), New Jersey )

CONCLUSIONS AND ORDER

Holder of Club License CB-2, for the 1960-61 and 1961-62 licensing years, issued by the Common Council of the City of Burlington. )

-----  
Salvatore J. Avena, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The defendant pleaded not guilty to the following charge:

'On April 7, 1961, 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 Regulation No. 7.'

"At the hearing held herein, the Division called as its witnesses two ABC agents, hereinafter referred to as Agent S and Agent G.

"Agent S testified that on Friday, April 7, 1961, at about 9:45 p.m., he and Agent G arrived in the vicinity of defendant's licensed premises to investigate a complaint that the defendant was selling alcoholic beverages to non-members; that while his companion remained on the outside, he proceeded to a porch leading to the entrance of the licensed premises and knocked on its front door, in response to which the door was opened by Wiley Cody, an attendant; that Mr. Cody asked him if he were a member or a guest of a member of the Post; that he replied in the negative and that he was denied admission. Agent S further testified that he remained standing on the porch for a few minutes when William Kern (incoming Commander of the Post) approached and engaged him in conversation; that he informed Mr. Kern that he was in town on a visit and that he was looking for a Robert Murphy; that Robert Murphy was not a veteran; that Mr. Kern stated that the club membership included a Mr. Murphy but his name was not Robert, and that his only alternative was to make him his guest; that following this conversation, Mr. Kern invited him into the licensed premises; that he accompanied Mr. Kern and his wife into the premises; that at Mr. Kern's request, he registered as Mr. Kern's guest and purchased a ticket for \$1.50 from another doorman (Mr. Amadico), who was seated behind a table located at the entrance to a room which contained a long bar and a number of service tables; that Mr. Kern and his wife went to one section of the bar which was being tended by three bartenders and that he proceeded to another section thereof; that about fifteen minutes after he had purchased a bottle of beer from one of the bartenders, he was joined

by Agent G; that he and Agent G had purchased three bottles of beer without being questioned by the bartenders whether they were members or guests of members of the club. Agent S further testified that at about 10:25 p.m. Mr. Kern joined him and Agent G for about five minutes; that except for this visit by Mr. Kern, he and Agent G were unattended by anyone in the premises and that Mr. Kern did not introduce him or Agent G as his guests to the bartenders.

"Agent S further testified that the records of this Division disclose that defendant held a club license; that the Division had not issued any special permit extending the privileges of defendant's license for the night in question; that he had observed a floor show in the premises during his visit and that he was not a member of the club licensee.

"On cross-examination, Agent S substantially reiterated his direct testimony.

"Agent G testified that at about 9:55 p.m. he gained admission to the licensed premises by stating to Mr. Cody that he was looking for his companion (Agent S); that at Mr. Cody's request, he registered as Mr. Kern's guest; that he purchased a ticket for \$1.50 from Mr. Amadico; that he joined Agent S at the bar and that he and Agent S had purchased four or five bottles of beer from the three different bartenders on duty, none of whom inquired of them if they were members or guests of members of the Post.

"Agent G further testified that Mr. Kern joined him and Agent S at the bar for about five or ten minutes; that except for this visit by Mr. Kern, he and Agent S were unattended by any members of the Post; that he had not been invited to the licensed premises by Mr. Kern; that he was not a member of the club and that he had observed three acts of entertainment during his visit to the premises.

"On cross-examination, Agent G's testimony did not vary from the pertinent parts of his direct testimony.

"Wiley C. Cody, on behalf of the defendant, testified that he is the Junior Vice-Commander of the Post; that on the night in question he was acting as doorman for the purpose of identifying members and their guests; that at about 10:00 p.m. he observed Mr. Kern (with Mrs. Kern) in a conversation with Agent S, following which they entered the premises together; that Agent S registered as a guest of Mr. Kern, and that he suggested to Agent S to stay close with Mr. Kern.

"On cross-examination, Mr. Cody testified that on the night in question there were about one hundred people in the club; that, with the exception of four or five individuals, each donated \$1.50 upon his entry to the premises; that this money was used to defray the expenses of the orchestra and entertainment; that there is a sign which reads 'Donations - \$1.50' on the table where the members and their guests sign the register and that about fifty of those in attendance were guests of members.

"William D. Kern, on behalf of the defendant, testified that he is the Commander of the Post; that on the night in question, he spoke with Agent S at the entrance to the club premises; that Agent S informed him that he was seeking admission to the club as a guest of a Mr. Murphy; that he did hear Agent S state Mr. Murphy's Christian name; that the Club's membership includes an Al Murphy, who was not then in the premises; that he volunteered to make Agent S his guest; that under the circumstances, he did not believe it was 'wrong' to admit Agent S as his guest and that he had a general discussion with Agent S with respect to becoming a member of the Post.

"Mr. Kern further testified that Agent S signed the register as his guest; that Agent S voluntarily made a donation of \$1.50; that there were sixty-five or seventy similar donations made that night; that these donations defrayed the cost of the band and overhead expenses of the club; that all donations were made voluntarily; that he had invited Agent S to join him at his table; that as incoming Commander he was being greeted by many friends when he entered the premises; that in the course of the same Agent S 'veered off the opposite way'; that about twenty minutes later, while seated at a table, he observed Agent S at the bar; that he joined Agent S, who was then in company of Agent G; that he did not authorize Mr. Cody to register Agent G as his (Kern's) guest; that he was subsequently informed of this fact by Mr. Cody; that in welcoming Agent G as his guest, he stated that 'under the circumstances we must be very careful for all I know you two may be A.B.C. men to the best of my knowledge'.

"On cross-examination, Mr. Kern testified that he did not remember Agent S telling him that Robert Murphy was not a veteran; that he learned of Agent G's presence in the club premises about twenty minutes before he met him as aforesaid; that he did not invite Agent G to join him at his table; that when he had invited Agent S as his guest, he was aware that he was running the risk that Agent S might be an investigator of the Division.

"Alfonzo Parente (a member of the Post), on behalf of the defendant, testified that on the night in question he was tending bar at the club premises; that he saw Mr. Kern at the bar in the company of Agent S and Agent G, and that Mr. Kern had ordered a drink for each one and that Agent S insisted upon paying for the same.

"On cross-examination, Mr. Parente testified he knew that Agent S and Agent G were not members of the club; that he had served each a drink while they were unattended by Mr. Kern and that he was too busy to inquire of them if they were guests of a member of the Post.

"Thomas J. Morrissey, on behalf of the defendant, testified that he is a member of the local governing body and chairman of the alcoholic beverage committee; that the Post has always been cooperative and that the primary purpose of his appearance is to ask for leniency for the defendant.

"A club licensee is authorized to sell alcoholic beverages for on-premises consumption only to bona fide members and to bona fide guests of members.

"A bona fide guest is an individual who is expressly invited by an individual member of the club and who is not only sponsored by, but who is personally attended by the member. Re Morganville Independent Club, Bulletin 1199, Item 1; see Bulletin 1325, Item 3. If non-members are compelled to buy tickets for the function the club will hold, or pay an admission charge, they clearly are not bona fide guests. See The Perth Amboy Calabrese Social Club, Bulletin 213, Item 4, and cases cited therein.

"The principal question to be resolved in this matter is whether Agent S and Agent G were, on the night in question, bona fide guests of a member of the defendant club. It is conceded by the defendant that neither agent was a member of the club.

"Based on the testimony adduced herein, I find as a fact (a) that on April 7, 1961, neither agent was expressly invited to come to the club premises, (b) that neither agent, except for a short interval, was personally attended by a member of the Post, (c) that both agents

paid an admission charge to enter the club premises and (d) that on the night of April 7th aforesaid, both agents were served alcoholic beverages in the club premises. Hence, I conclude that the agents were not bona fide guests of a member of the Post.

"After reviewing all of the evidence, I recommend that defendant be found guilty as charged. Defendant has a prior adjudicated record. Effective June 10, 1940, its license was suspended for five days for sales to non-members (Bulletin 407, Item 11); effective March 1, 1948, its license was suspended for five days for possession of slot machines (Bulletin 796, Item 9); effective July 18, 1949 its license was suspended for twenty-five days for an 'hours' violation and gambling (cards) (Bulletin 849, Item 10) and effective May 8, 1950, its license was suspended for fifty-four days for sales to non-members (Bulletin 875, Item 11). Since aforesaid prior violations occurred more than ten years ago, they will not be considered in fixing the penalty herein. Re Donst, Bulletin 1390, Item 2. It is further recommended, therefore, that an order be entered suspending the defendant's license for a period of fifteen days. Re Lyons-Schepsco Post No. 1451, V.F.W., Bulletin 1230, Item 3."

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

After carefully considering the facts herein, I concur in the findings and conclusions of the Hearer as to the guilt of the defendant and adopt his recommendation with respect thereto.

However, I find the facts in this case slightly different from the usual "member guests" cases. Under the circumstances, I shall modify the suspension recommended by the Hearer and suspend the defendant's license for ten days.

Accordingly, it is, on this 1st day of August, 1961,

ORDERED that Club License CB-2, issued by the Common Council of the City of Burlington to Scully-Bozarth Post #1817, V.F.W., for premises on Southside River Bank, Burlington, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Tuesday, August 8, 1961, and terminating at 2:00 a.m., Friday, August 18, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

BOWL MORE RESTAURANT CORP. )  
t/a HAYNES LANES )  
498 Carnegie Avenue )  
Newark, New Jersey )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-726 (for the 1960-61 and 1961-62 licensing years), issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )

-----)  
Leo J. Berg, Esq., Attorney for Defendant-licensee.  
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On May 16, 1961, ABC agents tested defendant's open stock of liquor and seized a number of bottles for further tests by the Division's chemist. The chemist's report shows that the contents of fourteen of the seized bottles varied substantially in solids or color or acids when compared with samples of the genuine products of the named brands.

In attempted mitigation defendant's attorney alleges that the conduct referred to in the charge was due to "a deliberate attempt to embarrass the licensee." This may have reference to an allegation made to the agents at the time of the seizure by Theodore J. Seidenberg (manager) that "a former manager who had been fired might have tampered with the bottles." However, at the time of the seizure, a bartender (then employed) verbally admitted to the agents that he had tampered with the contents of the bottles. In any event, a licensee is responsible when alcoholic beverages not truly labeled are found on his licensed premises. Cedar Restaurant & Cafe Co. v. Hock, 135 N.J.L. 156.

Defendant has no prior adjudicated record. In view of the fact that fourteen bottles are involved herein, I shall suspend defendant's license for forty-five days. Re Martino, Bulletin 1384, Item 2. Five days will be remitted for the plea, leaving a net suspension of forty days.

Accordingly, it is, on this 31st day of July 1961,

ORDERED that plenary retail consumption license C-726, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Bowl More Restaurant Corp., for premises 498 Carnegie Avenue, Newark, be and the same is hereby suspended for forty (40) days, commencing at 2 a.m. Wednesday, August 2, 1961, and terminating at 2 a.m. Monday, September 11, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

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

In the Matter of Disciplinary Proceedings against )

FAMILY TAVERN, INC. )  
t/a FAMILY TAVERN )  
Bate and Haddon Avenues )  
Berlin Township )  
PO West Berlin, New Jersey )

CONCLUSIONS AND ORDER

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

----- )

Joseph A. Maressa, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge;

"On Saturday, July 1, 1961 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., John ---, age 17, and James ---, age 19, 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."

On the evening of Saturday, July 1, 1961, ABC agents visited the defendant's licensed premises and observed two apparent minors in the uniform of the United States Navy seated at the bar. These apparent minors were later identified as James --- (age 19) and John --- (age 17). At about 9:25 p.m. the agents observed John Edward Hritz (the bartender) serve to each minor a mug of beer, which the minors consumed. James then purchased five quart-bottles of Piel's beer for off-premises consumption and paid the said bartender \$2.40 for the beers consumed and the five bottles in question. Neither minor was questioned as to his age. The agents then identified themselves and obtained written confessional statements from both minors. The bartender was then arrested, charged with violation of R.S. 33:1-77, and was arraigned in the Municipal Court of Berlin Township.

Defendant has no prior adjudicated record. I have carefully considered a letter from counsel for defendant wherein he states that the bartender was a new employee and that none of the officers was present at the time that the said sales were made. It is, of course, a well-established principle of law that the defendant is liable for the acts of its agents, servants or employees (Rule 33 of State Regulation No. 20; Re Trosky, Bulletin 1269, Item 3), and I find no circumstance herein which would warrant the imposition of less than the minimum penalty for such violation. I shall suspend defendant's license for twenty days, the minimum suspension for sale to two minors, one of whom is only 17 years of age (Re Greer, Bulletin 1370, Item 9). Five days will be remitted for

the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 31st day of July 1961,

ORDERED that plenary retail consumption license C-2, issued by the Township Committee of Berlin Township to Family Tavern, Inc., t/a Family Tavern, for premises at Bate and Haddon Avenues, Berlin Township, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Monday, August 7, 1961, and terminating at 2 a.m. Tuesday, August 22, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - HOSTESSES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )  
CARMINE TROPEANO and ANGELO TROPEANO )  
t/a RAINBOW CLUB )  
101 Division Street )  
Elizabeth, New Jersey )

CONCLUSIONS  
AND ORDER

-----)  
Holders of Plenary Retail Consumption License C-64, for the 1960-61 and 1961-62 licensing years, issued by the City Council of the City of Elizabeth. )

Defendant-licensees, by Carmine Tropeano, a partner. Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they permitted hostess activity on their licensed premises, in violation of Rule 22 of State Regulation No. 20.

On June 3, 1961, ABC agents visited defendants' licensed premises and observed a female employee (Agnes Merritt, also known as "Mickey") accept drinks from and at the expense of male patrons. One of the agents ordered drinks for Mickey, his fellow-agent and himself, which drinks were served by Carmine Tropeano, one of the defendant-licensees. An agent seized Mickey's drink and both agents identified themselves to Carmine Tropeano, who verbally admitted serving drinks to Mickey at the expense of patrons.

Defendants have no prior adjudicated record. I shall suspend defendants' license for twenty days. Re Tamburro, Bulletin 1342, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly it is, on this 1st day of August, 1961,

ORDERED that Plenary Retail Consumption License C-64, issued by the City Council of the City of Elizabeth to Carmine

Tropeano and Angelo Tropeano, t/a Rainbow Club, for premises 101 Division Street, Elizabeth, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m., Tuesday, August 8, 1961, and terminating at 2:00 a.m., Wednesday, August 23, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

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

In the Matter of Disciplinary Proceedings against

MARIETTA GALLUCCI  
t/a GAY SPOT CAFE  
1855 S. 4th Street  
Camden, New Jersey

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-42, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

-----  
Defendant-licensee, Pro se.

Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that during prohibited hours she sold, served and delivered alcoholic beverages in their original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

At 11:00 p.m., Thursday, July 6, 1961, an ABC agent entered defendant's licensed premises and asked for a six-pack of beer to take out. Dominick Gallucci (husband of the licensee) who was tending bar requested the agent to open the cooler and make his selection. The agent complied and after paying Mr. Gallucci \$1.00, left with his purchase. A fellow-agent who had remained outside was informed as to what had taken place and both agents entered the premises and made their identities known to Mr. Gallucci who admitted the after-hours sale.

Defendant has no prior adjudicated record. I shall suspend her license for the minimum period of fifteen days and remit five days for the plea entered herein, leaving a net suspension of ten days. Re Royal Room, Inc., Bulletin 1388, Item 8.

Accordingly, it is, on this 31st day of July 1961,

ORDERED that Plenary Retail Consumption License C-42, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Marietta Gallucci, t/a Gay Spot Cafe, for premises 1855 S. 4th Street, Camden, be and the same is hereby suspended for



9. STATE LICENSES - NEW APPLICATION FILED

The Kristen Distributing Company  
590 Bercik Street  
Elizabeth, New Jersey

Application filed September 21, 1961  
for place-to-place transfer of Limited  
Wholesale License WL-48 from 525 West  
Grand Street, Elizabeth, New Jersey



William Howe Davis  
Director