

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

Mr. Michelson

BULLETIN 1189

OCTOBER 3, 1957.

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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 1189

OCTOBER 3, 1957.

1. NEW LEGISLATION - AMENDMENT OF PLENARY RETAIL CONSUMPTION  
AND PLENARY RETAIL DISTRIBUTION LICENSE PARAGRAPH OF  
REVISED STATUTES, 33:1-12 - LICENSE FEES.

Senate Bill No. 255 (1957) was approved by the Governor on August 15, 1957 and thereupon became Chapter 179 of the Laws of 1957, effective immediately. In amending Revised Statutes, 33:1-12, the Act makes no changes in that section's provisions concerning seasonal retail consumption licenses (R. S. 33:1-12(2)), limited retail distribution licenses (R. S. 33:1-12(3b)), plenary retail transit licenses (R. S. 33:1-12(4)), or club licenses (R. S. 33:1-12(5)). The Act's only change is in placing the following restriction upon fee increases for plenary retail consumption licenses (R. S. 33:1-12(1)) and plenary retail distribution licenses (R. S. 33:1-12(3a)):

"No ordinance shall be enacted which shall raise or lower the fee to be charged for this license by more than 20% from that charged in the preceding license year or \$500.00, whichever is the lesser."

WILLIAM HOWE DAVIS  
Director.

Dated: September 20, 1957.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES  
(PERMITTING SOLICITATION AND MAKING ARRANGEMENTS ON LICENSED  
PREMISES FOR ILLICIT SEXUAL INTERCOURSE - OBSCENE LANGUAGE  
AND CONDUCT) - NUISANCE - HOSTESSES - LICENSE REVOKED.

In the Matter of Disciplinary )  
Proceedings against )

NICK'S WHITE HORSE TAVERN )  
T/a NICK'S WHITE HORSE TAVERN )  
White Horse Pike & Garfield Avenue )  
Chesilhurst, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-4 (for the 1956-57 and )  
1957-58 licensing years), issued by )  
the Mayor and Borough Council of the )  
Borough of Chesilhurst. )  
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Albert J. Klein, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

The defendant has pleaded non vult to the following charges:

"1. On June 2, 3, 9 and 16, 1957, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., solicitation for prostitution and the making of arrangements for illicit sexual intercourse and acts of perverted sexual relations; in violation of Rule 5 of State Regulation No. 20.

"2. On June 2, 3, 9 and 16, 1957 you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered females employed on your licensed premises to make overtures to male patrons for illicit sexual intercourse and acts of perverted sexual relations; allowed, permitted and suffered females employed on your licensed premises to accept beverages at the expense of or as a gift from customers and patrons; allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises; 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."

New Jersey State Troopers were assigned to investigate alleged prostitution at the licensed premises. Reports in the file of such troopers set forth the following account of what transpired.

On June 1, 1957, at about 10:00 p.m., two troopers entered the defendant's licensed premises. A male called "Jimmy" and a female called "Essy" were behind the bar. During the course of the evening a waitress called "Penny" solicited the troopers to purchase alcoholic beverages for her, which they did, as well as for another waitress, called "Jean", whom Penny invited to join the group. While so engaged, a discussion arose between one of the troopers and Penny concerning her availability for sexual intercourse. Penny stated that she charged \$25.00, of which she was required to pay "Bea" \$5.00 for the use of the room. The troopers left without taking any further action.

On June 3rd, at about 12:15 a.m., the troopers returned to the premises. The bartenders were "Jimmy" and a female called "Connie". The troopers had observed on their previous visit that Connie was employed as a hostess in the establishment. Two waitresses, the aforementioned Jean, and one called "Berti" drank alcoholic beverages purchased for them by the troopers. At 4:20 a.m. a female called "Bea", whom the troopers assumed was the owner of the establishment, opened the door to permit them to leave.

On June 9th, at about 12:45 a.m., the troopers again visited the defendant's tavern. Jimmy and Essy were tending bar and Connie was acting as hostess in the dining room. The troopers purchased a number of drinks for Connie, with whom they discussed her availability for sexual intercourse and she stated that she would talk upstairs about price. At about 3:30 a.m. Connie and one of the troopers proceeded by a stairway leading from the bar to a room on the second floor. Connie started to undress and told the trooper her price was \$20.00, of which she was required to give \$5.00 to Bea. The trooper handed \$20.00 to Connie, who prepared to engage in intercourse, but the trooper feigned inability to take part. The trooper opened the door of the bedroom, leading into a hallway where the other trooper was seated. Connie invited the trooper in to participate in sexual intercourse. He entered the room and paid Connie \$20.00. She again prepared to engage in sexual intercourse, and the trooper also feigned inability to take part. She then told both troopers that she would give them another chance at 3:00 p.m. that day. Bea opened the door when the troopers left the premises.

At about 3:00 p.m. the troopers returned. Berti was tending bar. Asked the whereabouts of Connie, she made a telephone call, and Connie arrived shortly thereafter and relieved Berti as bartender. When the troopers reminded Connie of her previous promise, she suggested that she should be paid \$15.00, since she was required to again pay Bea \$5.00. Bea came out and took over as bartender and Connie and one of the troopers went upstairs to her bedroom. Handed a \$20.00 bill, Connie went into another bedroom occupied by Berti and returned with change of the bill. The trooper again feigned inability and Connie suggested that perhaps Berti would do better. Berti then entered Connie's bedroom, stated that her price was \$20.00, of which she was required to pay Bea \$5.00. The trooper paid Berti \$20.00 and she prepared to engage in intercourse, in the presence of Connie. The trooper again professed inability to participate and shortly thereafter both troopers left at which time Bea was still tending bar.

On June 16th, at about 1:45 a.m., the troopers made their final visit to the tavern. Jimmy and Essy were tending bar. Connie was acting as hostess in the dining room and Berti was sitting at the bar. At Connie's request, the troopers purchased drinks for her and during the course of the evening they also purchased drinks for Berti and Jimmy. Connie told the troopers that they did not have to wait until the place closed, that "we could go upstairs anytime, and have a good time together before we get too drunk to do anything". Berti had a conversation with one of the troopers to the same effect. The troopers made an excuse for not accepting the offer at that time.

At about 2:30 a.m., by prearrangement, other State Troopers and ABC agents entered the tavern, disclosed their identity, and arrested the persons involved. They ascertained that Bea's name is Albea Welton, Connie's name is Cornelia Frances Bentley, and Berti's name is Alberta Medley. The troopers also arrested James H. Smith, the bartender, and Elmer Young, the porter.

Mrs. Welton, when questioned, told the officers that she had the kitchen or restaurant concession and runs the place for her sister, Jane Hamilton, the record owner of only five shares of the stock of the corporate licensee; that she (Mrs. Welton) hired the waitresses and barmaids and resides on the premises, takes care of the place, and pays some bills in cash. The troopers observed that when the place was closed after the raid, she removed the cash from the register and instructed a barmaid to close the place. She also told the officers that she had been arrested once for "numbers", once for liquor and once for operating a "call house". Her fingerprint records disclose her conviction for violating the Pennsylvania liquor law and setting up an illegal lottery, and an arrest in Philadelphia on a disorderly house charge.

Elmer Young told the officers that he had been employed by Albea Welton as porter in the dining room and bar, and in his spare time acts as host and bouncer, was paid by her, and never received any instructions other than from her.

The officers obtained a signed statement from Cornelia Frances Bentley wherein it appears that she was employed by Mrs. Welton as barmaid over a year previously; is paid by her and resides on the premises; that she made a practice during the entire period of engaging in prostitution activities of the

nature described by the troopers; that Mrs. Welton knew of such practices and received \$5.00 on each occasion, an arrangement made with Mrs. Welton when she was hired; that Alberta Medley, who also resides in the premises, engaged in the same practices under the same arrangement; that the troopers' account of their arrangements with her and Berti for prostitution, the payment by them of the various sums of money, and their payment for drinks is correct; that she generally collects the receipts of the tavern at night and gives them to Mrs. Welton; and that she and Berti tried to solicit the two troopers for immoral purposes on June 16th.

The unsavory details have been related at length to demonstrate the outrageous manner in which the licensed premises have been conducted. To maintain what amounts to a house of prostitution as an adjunct to a licensed tavern, in the very premises where such tavern is located, with the auxiliary misconduct of the promotion of drinks by the so-called barmaids of male patrons, is a sordid and evil practice which cannot and will not be tolerated.

The persons visibly and actually responsible for carrying on such practices are Mrs. Welton and the so-called barmaids. The ostensible stockholders of record of the corporate licensee are William Andrews, Edgar Callaway and Jane Hamilton, sister of Mrs. Welton. Andrews and Callaway have not voiced any interest in the matter and have not appeared on the scene. None of the stockholders or officers were observed on the licensed premises during the various visits by the State Troopers. Jane Hamilton, a five per cent stockholder of record, residing in Philadelphia, Pennsylvania, appeared at the premises on June 16th and claimed that she personally paid the employees and that her sister merely operated the restaurant. In a statement of alleged mitigating circumstances submitted by the attorney for the defendant, it appears that Jane Hamilton apparently has a major interest in the corporation far in excess of five per cent.

Irrespective of whether Mrs. Welton is the actual owner of the tavern and Jane is fronting for her, because of Mrs. Welton's unenviable record and consequent possible inability to qualify for a liquor license, or Jane Hamilton is the actual major stockholder of the corporate-licensee and conceals the fact because not qualified to hold such an interest by reason of non-residence, and without expressing any formal opinion on either score, it is sufficient to say that Mrs. Welton was either the actual manager of the business or the ostensible owners of the corporation displayed no ascertainable effort to supervise the operation thereof. Hence, they cannot escape full responsibility for the misconduct therein. A licensee who absents himself from the licensed premises cannot escape the consequences of misconduct therein. Re Manzo, Bulletin 1177, Item 8. The only proper and justifiable penalty is revocation of the license. Re Merjack Corporation, Bulletin 998, Item 1.

Accordingly, it is, on this 12th day of August, 1957,

ORDERED that Plenary Retail Consumption License C-4, for the 1957-58 licensing year, issued by the Mayor and Borough Council of the Borough of Chesilhurst to Nick's White Horse Tavern, t/a Nick's White Horse Tavern, for premises White Horse Pike & Garfield Avenue, Chesilhurst, be and the same is hereby revoked, effective immediately.

WILLIAM HOWE DAVIS  
Director.

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PERMITTING THE EMPLOYMENT OF BARTENDER IN VIOLATION OF LOCAL ORDINANCE - LEWDNESS AND IMMORAL ACTIVITIES (OBSCENE LANGUAGE AND CONDUCT) - PERMITTING INTOXICATED EMPLOYEE TO WORK ON LICENSED PREMISES - BRAWL - NUISANCE - LICENSE SUSPENDED FOR 90 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
 Proceedings against )

CHARLES DRESSLER )  
 132 Hudson Street )  
 Hoboken, N. J., )

CONCLUSIONS  
 AND ORDER

Holder of Plenary Retail Consump- )  
 tion License C-67, issued by the )  
 Municipal Board of Alcoholic )  
 Beverage Control of the City of )  
 Hoboken. )

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 Nicholas J. Paladino, 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 charges:

"1. On July 25, 1957, 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., Joseph ---, age 19, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.

"2. On July 12, 1957, you permitted a person, called Harold Smallze, to work in your licensed premises, as a bartender, without his first having complied with Article VI of an Ordinance adopted by the Mayor and Council of the City of Hoboken on December 7, 1955.

"3. On July 25, 1957, you employed or permitted the employment of a female, called Mary Kennelly, as a bartender on your licensed premises; in violation of Article VIII, Section 1(g) of an Ordinance adopted by the Mayor and Council of the City of Hoboken on December 7, 1955.

"4. On June 12, 13, 19, 27 and July 25, 1957, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance 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 on all the above stated dates; allowed, permitted and suffered a person actually or apparently intoxicated to work as a bartender in and upon your licensed premises on June 27, 1957; allowed, permitted and suffered a brawl, act of violence and disturbance in and upon your licensed premises on June 27, 1957; and otherwise conducted your place of business on all the above stated dates in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

The file herein discloses that ABC agents visited defendant's licensed premises on June 12, June 19, June 27, July 12

and July 25, 1957. On four of these occasions the agents heard a number of the patrons, as well as the different bartenders on duty, freely and loudly use the most revolting, foul, filthy and obscene language. In addition to the foregoing, the file further discloses that on June 12, 1957, their first visit to the premises, the agents observed a male patron kissing and indecently caressing his female companion (known as Ceil) sitting at the bar with him. The agents called this scene to the attention of the bartender who ignored the same except with a repulsive remark connoting that the woman was of depraved propensities. On June 19, 1957, their second trip to the premises, the agents sat at the bar alongside of a man (Sal, a bartender off duty) and a woman who, in the course of a boisterous fifteen-minute argument, continually hurled the vilest epithets at each other without any interference by the bartender. Shortly thereafter Sal, in a conversation with the agents, informed them that the bartender (Harry) and he stole \$12.00 from the pocketbook of this woman while she was dancing and had "clipped" her regularly on Wednesdays when she would come to the tavern with her weekly pay. Before leaving that evening, the agents observed Ceil enter the premises and discussed her with Harry who vulgarly described her as the lowest type of prostitute with whom he had sexual intercourse in the ladies' room on the licensed premises.

On June 27, 1957, at about 9:00 p.m., the agents returned to the premises and witnessed a fist fight between two female patrons apparently intoxicated. The brawl lasted about five minutes and came to a halt when a male patron tapped the aggressor on the head with a pool cue. Sal, who was on duty, made no effort to stop the fight. At about 10:00 p.m. Sal was relieved by another bartender (Frank) who appeared intoxicated and walked behind the bar with an unsteady gait. At about 11:40 p.m. Ceil entered the premises and solicited two drinks from and at the expense of the agents with the complete cooperation of the bartender.

On their fourth visit to the premises the agents observed a new bartender, called Harold, tending bar. The investigation of the case discloses that the licensee, contrary to a local ordinance, employed aforesaid bartender (Harold Smallze of 244 Duncan Avenue, Jersey City) who had not been issued an identification card by the Department of Public Safety of Hoboken.

On Friday, July 25, 1957, at about 10:15 p.m., the agents made their fifth and final trip to the premises. The premises were occupied by a number of male and female patrons who were being served from behind the bar by Mary Kennelly (a barmaid) contrary to a local ordinance prohibiting females to act as barmaids. At about 10:50 p.m. the agents approached an apparent minor whom they had observed consuming two glasses of beer served to him by the barmaid. Subsequently this minor identified himself as Joseph --- and, in a sworn written statement dated July 26, 1957, stated he was nineteen years of age; that he entered the licensed premises on July 25, 1957, at about 10:00 p.m., took a seat at the bar where he consumed about ten glasses of beer served to him by the barmaid, Mary Kennelly, at ten cents per glass, and that at no time was he questioned about his age. Mary Kennelly also gave a sworn written statement dated July 25, 1957, wherein she admits tending bar on the licensed premises on six occasions including the night of July 25, 1957; that on July 25, 1957, she served alcoholic beverages to the patrons and that she served about ten glasses of beer to Joseph --- and made no inquiry of him about his age.



By way of mitigation, the attorney for the defendant-licensee has submitted a letter requesting I deal leniently with the licensee for the reasons that the licensee entrusted the operation of the licensed premises to others and was not on the premises when the violations took place. The licensee, however, cannot escape the consequences of the aforementioned acts of his agents (Rule 33 of State Regulation No. 20) (cf. Re Nehoc Tavern, Inc., Bulletin 1149, Item 5). Nor can a licensee exculpate himself because of his absence from the licensed premises when violations take place (cf. Re Manzo, Bulletin 1177, Item 8).

I have read the file in this case and find no extenuating circumstances that would impel me to impose a lesser penalty than that fixed in cases of this kind. Defendant has no prior adjudicated record. Under all the circumstances, I shall suspend his license for ninety days on all four of the aforesaid charges. Five days will be remitted for the plea entered herein, leaving a net suspension of eighty-five days (cf. Re Raimondi & Capelli, Bulletin 884, Item 8; Re Rogers, Bulletin 1186, Item 4).

Accordingly, it is, on this 10th day of September, 1957,

ORDERED that Plenary Retail Consumption License C-67, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Charles Dressler, for premises 132 Hudson Street, Hoboken, be and the same is hereby suspended for eighty-five (85) days, commencing at 2:00 a.m. September 17, 1957, and terminating at 2:00 a.m. December 11, 1957.

WILLIAM HOWE DAVIS  
Director.

4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - SALE AT PLACE OTHER THAN LICENSED PREMISES - FAILURE TO KEEP PHOTOSTATIC OR TRUE COPY OF CURRENT LICENSE APPLICATION ON LICENSED PREMISES - HINDERING - LICENSE SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

C. & D. TAVERN (A Corp.) )  
550 Market Street )  
Newark 5, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-122, issued by the )  
Municipal Board of Alcoholic )  
Beverage Control of the City of )  
Newark. )

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Michael J. Hynda, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On Sunday, June 16, 1957, at about 9:45 a.m., 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 and allowed, permitted and suffered the removal from your licensed premises of that beverage in its original container and also another alcoholic beverage in an opened container; in violation of Rule 1 of State Regulation No. 38.

"2. On Sunday, June 16, 1957, at about 9:45 a.m., you sold alcoholic beverages not pursuant to and within the terms of your plenary retail consumption license as defined by R. S. 33:1-12(1), contrary to R. S. 33:1-26 and R. S. 33:1-1(w) in that you accepted orders for and sold bottles of whiskey at a place other than your licensed premises; viz., through a window of a lavatory on the first floor of your building; in violation of R. S. 33:1-2.

"3. On Sunday, June 16, 1957, you conducted your licensed business without keeping a photostatic or other true copy of your application for your current license on your licensed premises available for inspection; in violation of Rule 16(b) of State Regulation No. 20.

"4. On Sunday, June 16, 1957, between 9:45 a.m. and 10:45 a.m., while investigators 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."

The file herein discloses that on Sunday, June 16, 1957 at about 9:45 a.m. two ABC agents who had defendant's premises under surveillance observed a man enter the back yard of the premises. One of the agents followed this man, who proceeded to a window of a lavatory in the building. There (through the window) a person called John handed the man a paper bag, and a pint bottle of Imperial Blended Whiskey. The agent then asked John for a pint of Hunter whiskey. John broke the seal on a pint bottle of this whiskey and then, through the window, handed the bottle in a brown paper bag to the agent, and received payment therefor. The agent left and accosted the man previously mentioned and ascertained that the bag in the man's possession contained a pint of Imperial Whiskey and a bottle of Seven-Up, both sealed. The agents and the man then entered the licensed premises and identified themselves to John. The man then stated that he paid \$2.50 for the bottle of whiskey. John corrected him, and said that he had charged \$2.70 for the whiskey and ten cents for the Seven-Up.

The bottle of whiskey purchased by the man and the bottle purchased by the agent were placed on the bar near one of the agents. The other agent left momentarily to obtain necessary documents. In his absence the man seized the bottle of Imperial Whiskey and while the other agent sought to recover it, John seized the other bottle and obtained possession of the bottle of Imperial from the man. When the second agent returned he noticed that John was placing the two bottles on a shelf behind the bar. The first mentioned agent went behind the bar to recover the bottles, whereupon John shoved the agent and told both agents to get out and prevented the recovery of the two bottles of whiskey.

One of the agents found the bottle opener which John had used to remove the seal on the bottle which the agent had purchased. John forcibly took the opener from the agent, and began to hurl insults and false accusations against the agents. When the agents asked for a copy of the license application, he claimed he did not know where it was, and would not tell them his name and address.

The alleged mitigating circumstances submitted by defendant's counsel as to the hindering charge are that "John" (whom he identified as Iwan Czereuta) acted as he did solely because the ABC agents failed at first to present their credentials and displayed a gun. This is not borne out by the facts and is obviously a pretense in his attempt to justify his actions. The further excuse offered that while the description of the licensed premises does not specifically include the lavatory as part of the licensed premises, it is an integral part thereof, is specious. A lavatory window used for the surreptitious sale of alcoholic beverages during prohibited hours obviously is not to be included by inference as a part of licensed premises. The manner of sale is typical of an "old fashioned speakeasy".

Defendant has no prior adjudicated record. I shall suspend the license on Charges 1 and 2 herein for thirty days (Re Ryan, Bulletin 1093, Item 3) and for an additional twenty days on the related Charges 3 and 4 (Re Czaplicki, Bulletin 1137, Item 3), making a total suspension of fifty days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty-five days.

Accordingly, it is, on this 5th day of September, 1957,

ORDERED that Plenary Retail Consumption License C-122, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to C. & D. Tavern, 550 Market Street, Newark 5, be and the same is hereby suspended for a period of forty-five (45) days, commencing at 2:00 a.m. September 16, 1957, and terminating at 2:00 a.m. October 31, 1957.

WILLIAM HOWE DAVIS  
Director.

5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - GAMBLING - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

FULTON BAR & GRILL, INC.  
T/a FULTON BAR & GRILL  
68 Bergen Avenue  
Jersey City, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-82 (for the 1956-57  
and 1957-58 licensing years) issued  
by the Municipal Board of Alcoholic  
Beverage Control of the City of  
Jersey City.

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Fulton Bar & Grill, Inc., Defendant-licensee, by Louise Bolte,  
President, Adolph Berndt, Treasurer, and Paul Berndt,  
Secretary.

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

BY THE DIRECTOR:

Defendant pleaded guilty to the following charges:

"1. On Sunday, May 19, 1957 between 8:35 p.m. and 10:10 p.m. and on Sunday, May 26, 1957 between 9:35 p.m. and 10:30 p.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of numerous orders of alcoholic beverages at retail in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of such beverages from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

"2. On Sunday, May 26, 1957, you allowed, permitted and suffered gambling, viz., the playing of card games for stakes of money, in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20."

The file herein discloses that three ABC agents were at defendant's licensed premises on Sunday, May 19, 1957 between 8:30 p.m. and 10:10 p.m. and on Sunday, May 26, 1957 between 9:30 p.m. and 11:35 p.m. On their first visit the agents observed the bartender make four sales of alcoholic beverages in their original containers for off-premises consumption to various patrons. Thereafter, one of the agents made a similar purchase from the bartender. The agents then left the premises without identifying themselves. On their second visit they observed Paul Berndt, an officer of the corporate licensee and two patrons play about fourteen games of pinochle. At the conclusion of each game the agents saw \$2.00 and at times \$4.00 pass between the players. While watching these games the agents also saw the bartender make two sales of alcoholic beverages in their original containers for off-premises consumption to patrons. At about 10:30 p.m. one of the agents asked the bartender for a pack of six 12-oz. cans of Ballantine's beer "to go". The bartender thereupon placed aforesaid requested beer in a paper bag, handed it to the agent and accepted \$1.15 in payment thereof. The agents then left the premises with the alcoholic beverages, returned to same within a few minutes and identified themselves to Paul Berndt and the others on the premises. The bartender orally admitted making aforesaid sale of six 12-oz. cans of Ballantine's beer to the agent for off-premises consumption but denied all other sales.

The defendant has a prior adjudicated record. Effective September 25, 1950 its license was suspended by the local issuing authority for five days for an "hours" violation. It also appears that when Adolph Berndt (33 1/3% shareholder of the corporate licensee) held the license with Marie Ford as executors of the Estate of Marie Berndt for the same premises, their license, effective August 11, 1947, was suspended by the local issuing authority for ten days for sales to minors and unnecessary noise. Since the latter is a dissimilar violation and took place more than five years ago, I shall not consider it in fixing a penalty herein. Re O'Donnell, Bulletin 1131, Item 9. I shall suspend defendant's license on Charges 1 and 2 herein for 35 days, Re Blome, Bulletin 1169, Item 3, and for an additional 5 days for the aforesaid similar violation which occurred within a 10-year period, Re Amster, Bulletin 1142, Item 5, making a total suspension of 40 days. Five days will be remitted for the plea entered herein, leaving a net suspension of 35 days.

Accordingly, it is, on this 21st day of August, 1957,

ORDERED that Plenary Retail Consumption License C-82, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Fulton Bar & Grill, Inc., t/a Fulton Bar & Grill, for premises 68 Bergen Avenue, Jersey City, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. September 3, 1957, and terminating at 2:00 a.m. October 8, 1957.

WILLIAM HOWE DAVIS  
Director.

6. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

EDWARD S. GUGALA  
166 Maple Avenue  
Wallington, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-20, issued by the  
Mayor and Borough Council of the  
Borough of Wallington.

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Edward S. Gugala, Defendant-licensee, Pro se.  
Dora P. Rothschild, appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold alcoholic beverages at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulation No. 30.

The file discloses that on June 28, 1957 defendant sold a quart bottle of Schenley Reserve Blended Whiskey to an agent of this Division for \$5.50. The minimum consumer resale price then in effect was \$5.90. After the sale was consummated, the agent left the premises but returned immediately thereafter with a fellow agent who had remained outside the premises. The agents identified themselves to the defendant and confronted him with the alleged violation. Defendant denied the sale and refused to give a statement to the agents.

Defendant has no prior adjudicated record. I shall suspend his license for the minimum period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Biddulph, Bulletin 1169, Item 6.

Accordingly, it is, on this 30th day of July, 1957,

ORDERED that Plenary Retail Consumption License C-20, issued by the Mayor and Borough Council of the Borough of Wallington to Edward S. Gugala, for premises 166 Maple Avenue, Wallington, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. August 5, 1957 and terminating at 3:00 a.m. August 10, 1957.

WILLIAM HOWE DAVIS  
Director.

7. DISCIPLINARY AND CANCELLATION PROCEEDINGS - CHARGE ALLEGING FALSE ANSWER IN AFFIDAVIT AND CHARGE ALLEGING THAT LICENSE HAD BEEN IMPROVIDENTLY ISSUED IN VIOLATION OF R.S. 33:1-12(3)b DISMISSED FOR LACK OF PROOF.

In the Matter of Disciplinary  
Proceedings against

LOUIS OSSII  
265 Parker Avenue  
Clifton, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Limited Retail Distribution License DL-4 (for the 1956-57 and 1957-58 licensing years), issued by the Municipal Board of Alcoholic Beverage Control of the City of Clifton.

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Louis P. Bertoni, Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charge:

"In your application dated January 29, 1957, filed with the Municipal Board of Alcoholic Beverage Control of Clifton, upon which you obtained your current limited retail distribution license, you falsely stated in answer to Question 9(a) that you would conduct a grocery business on the licensed premises, whereas in truth and fact you do not conduct any such business on the premises; said false statement being in violation of R. S. 33:1-25."

"Furthermore, the licensee was ordered to show cause why his limited retail distribution license issued for the 1956-57 licensing year, or any renewal thereof, should not be cancelled and declared null and void for the reason that said license was improvidently issued in violation of R.S. 33:1-12(3)b (as amended by P. L. 1951, ch. 163).

"The pertinent portion of P. L. 1951, Chapter 163, which became effective on June 5, 1951, provides as follows:

'Limited retail distribution license. 3b. The holder of this license shall be entitled, subject to rules and regulations, to sell any unchilled, brewed, malt alcoholic beverages in quantities of not less than seventy-two fluid ounces for consumption off the licensed premises; but only in original containers; provided, however, that this license shall be issued only for premises operated and conducted by the licensee as a bona fide grocery store, meat market, meat and grocery store, delicatessen, or other type of bona fide food store at which groceries or other foodstuffs are sold at retail; and provided further, that this license shall not be issued except for premises at which the sale of groceries or other foodstuffs is the primary and principal business and at which the sale of alcoholic beverages is merely incidental and subordinate thereto.\*\*\*'

"At the hearing herein an ABC agent testified that 'around noon' on April 1, 1957, he and a fellow-agent visited the licensed premises in question and upon finding the premises closed proceeded to the home of the licensee; that the licensee returned with the agents to the licensed premises and the agents upon entering same found that it contained only a quantity of soda and malt alcoholic beverages; that the licensee advised the agents that when he could afford to do so it was his intention to put groceries in the place. It was stipulated by the attorneys representing the parties in this proceeding that if the agent who had accompanied the one who had testified were called as a witness by the Division his testimony would corroborate that given by the other agent.

"The licensee, when asked about the condition of the premises for which he received the transfer of the license on February 25, 1957, testified that 'The condition of that store -- had metal walls, metal ceiling and the metal was rotted, it had to be all patched up, it had to be painted, the floor had to be scrubbed and many other things had to be done before I could have placed any groceries into the store according to the Board of Health. I also had to have limited time for taking care of all these things and also I had to have fixtures in there and had to have electrical work done and okayed by the City engineers, someone in charge that is to inspect, it had to be okayed by the inspector, all this and that. It took me lots of time.' He further testified at the hearing herein that the store now contains a large quantity of various types of groceries and other related items.

"At the instant hearing the attorney for the licensee requested the Division to assign an agent to make a current inspection of defendant's premises. The attorney appearing for the Division concurred in the request. On July 10, 1957 the same agents who had participated in the prior investigation visited the licensed premises and in their report described the licensed premises as having 'the appearance of being a small but well stocked grocery and delicatessen store.' The agents further reported that the licensee stated to them that the receipts from the sale of malt alcoholic beverages are about 17% of his total business.

"It is apparent that the defendant's licensed establishment is now conducted as a bona fide grocery store in that the sale of said groceries and other foodstuffs is the primary and principal business and the sale of alcoholic beverages is merely incidental thereto. Under the circumstances, I recommend that the rule to show cause be discharged. Cf. Re Haines, Bulletin 932, Item 10; Re Rosen, Bulletin 933, Item 8; Re Malley, Bulletin 933, Item 10; Re Warth, Bulletin 933, Item 11. Furthermore, I am satisfied from the evidence adduced herein that it was the intention of the defendant-licensee to conduct a grocery business at his licensed premises. I, therefore, recommend that the charge preferred herein be dismissed."

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

After careful examination of the record in the instant case, I agree with and adopt the recommended conclusions of the Hearer that the charge herein be dismissed.

Accordingly, it is, on this 30th day of July, 1957,

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

WILLIAM HOWE DAVIS  
Director.

8. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

SALVATORE ASSISI & FILOMENO FACCONO  
T/a PHIL & SALS  
346 - First Street  
Jersey City, N. J.,

CONCLUSIONS  
AND ORDER

Holders of Plenary Retail Consumption  
License C-130, issued by the Municipal  
Board of Alcoholic Beverage Control of  
the City of Jersey City.

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Defendant-licensees, by Filomeno Faccone.  
David S. Piltzer, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded guilty to a charge alleging that on Sunday, June 23, 1957, they sold during prohibited hours an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that on the afternoon of Sunday, June 23, 1957, two ABC agents were in the vicinity of defendants' licensed premises. Shortly after 1:00 p.m. one of the agents entered the premises and purchased from Filomeno Faccone (who was tending bar) a pint bottle of wine. The agent had previously told the bartender that he wanted the wine "to go" and, at the time of the sale, the bartender told the agent to put the bottle in his pocket. After the agent left the premises with the bottle he met the other agent and both returned to the premises and identified themselves to Filomeno Faccone who admitted the violation.

Defendants have a prior record. Effective December 7, 1946, their license was suspended for five days by the local issuing authority for an "hours" violation. However, since this violation occurred more than ten years ago it will not be considered in fixing the penalty herein (Re Stefura, Bulletin 1090, Item 3). I shall suspend defendants' license for fifteen days, and remit five days for the plea entered herein, leaving a net suspension of ten days (Re Solazzo, Bulletin 1176, Item 10).

Accordingly, it is, on this 21st day of August, 1957,

ORDERED that Plenary Retail Consumption License C-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Salvatore Assisi & Filomeno Faccone, t/a Phil & Sals, for premises 346 - First Street, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. September 3, 1957, and terminating at 2:00 a.m. September 13, 1957.

WILLIAM HOWE DAVIS  
Director.



9. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

ANDREW GORCICA )  
T/a ANDY'S LIQUOR STORE )  
93 Wallington Avenue )  
Wallington, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distri- )  
bution License D-1, issued by the )  
Mayor and Council of the Borough )  
of Wallington. )  
-----)

Andrew Gorcica, Defendant-licensee, Pro se.

Dora P. Rothschild, appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold an alcoholic beverage at retail at less than its price as listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulation No. 30.

The file herein discloses that on June 28, 1957, an ABC agent purchased from the defendant a quart of Seagram's Seven Crown Whiskey for \$5.50. The minimum resale price then in effect for the item in question was \$5.90.

Defendant has a prior adjudicated record. Effective January 14, 1952, his license was suspended for five days for a similar violation. Re Gorcica, Bulletin 923, Item 10. The minimum penalty for a violation as charged is ten days. Re Pellegrino, Bulletin 1167, Item 3. Considering the prior violation which occurred more than five years ago but within a ten-year period (cf. Re Belisonzi and Maurice, Bulletin 1100, Item 11), I shall suspend defendant's license for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 21st day of August, 1957,

ORDERED that Plenary Retail Distribution License D-1, issued by the Mayor and Council of the Borough of Wallington to Andrew Gorcica, t/a Andy's Liquor Store, 93 Wallington Avenue, Wallington, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. September 3, 1957 and terminating at 9:00 a.m. September 13, 1957.

WILLIAM HOWE DAVIS  
Director.

10. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALE TO MINORS,  
DISMISSED.

In the Matter of Disciplinary )  
 Proceedings against )

HELEN HUEBNER )  
 249 Secaucus Road )  
 Secaucus, N. J., )

CONCLUSIONS  
 AND ORDER

Holder of Plenary Retail Consump- )  
 tion License C-25 (for the 1956-57 )  
 licensing year), issued by the Town )  
 Council of the Town of Secaucus. )  
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Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
 Beverage Control.

BY THE DIRECTOR:

A charge of sale of alcoholic beverages to minors on May 31 and June 1, 1957 was served upon Helen Huebner by notice dated June 11, 1957. On June 13, 1957, the Town Clerk of the municipality advised that the license had been transferred (effective May 31, 1957) from Helen Huebner to Joseph Supel.

On June 21, 1957, an independent disciplinary proceeding involving the same charge was instituted against Joseph Supel (then the holder of the license) and Helen Huebner was advised that the charge against her would be nolle prossed. Joseph Supel has since pleaded non vult to the charge, and his license has been suspended.

Upon the date fixed for the hearing of the charge against Helen Huebner, the prosecutor moved that the charge be nolle prossed. The motion will be granted for the reason above set forth.

Accordingly, it is, on this 21st day of August, 1957,

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

WILLIAM HOWE DAVIS  
 Director.

## 11. STATE LICENSES - NEW APPLICATIONS FILED.

Penn Yan Wine Cellars, Inc.  
 150 Water Street, Penn Yan, N. Y.


Application filed September 30, 1957 for Transportation License.

Clinton Distributing Company  
 245 E. Washington Ave., Washington (Borough), N. J.

Application filed October 1, 1957 for person-to-person-place-to-place transfer of Limited Wholesale License WL-39 from The Old Reading Brewery, Inc., Ninth and Laurel Streets, Reading, Pa.

The Old Reading Brewery, Inc.  
 Ninth and Laurel Streets  
 Reading, Pa.

Application filed October 1, 1957 for Transportation License.



New Jersey State Library

William Howe Davis  
 Director.