

Gossweiler

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

BULLETIN 1549

February 10, 1964

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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 1549

February 10, 1964

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY  
(PROSTITUTION) - SALE IN VIOLATION OF STATE REGULATION NO. 38 -  
FALSE STATEMENT IN APPLICATION FOR LICENSE - PRIOR SIMILAR  
RECORD DISREGARDED BECAUSE OF CHANGE IN STOCKHOLDERS - LICENSE  
SUSPENDED FOR 75 DAYS.

In the Matter of Disciplinary )  
Proceedings against )

C. & S. Tavern Corp. )  
t/a Jack's Star Bar )  
24 Tichenor Street )  
Newark 2, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-143, issued by the Municipal )  
Board of Alcoholic Beverage Control )  
of the City of Newark. )

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Friedman & D'Alessandro, Esqs., by Edward G. D'Alessandro, Esq.,  
and Ralph B. Sussman, Esq., Attorneys for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic  
Beverage Control.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

"1. On May 8, 9 and 10, 1963, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of overtures and arrangements for acts of illicit sexual intercourse and perverted sexual relations; in violation of Rule 5 of State Regulation No. 20.

"2. On Thursday, May 9, 1963, at about 12:10 a.m., you allowed, permitted and suffered the removal from your licensed premises of an alcoholic beverage in an opened container, viz., an alcoholic beverage in an opened pint bottle labeled Seagram's Seven Crown American Blended Whiskey; in violation of Rule 1 of State Regulation No. 38.

"3. In your application filed with the Municipal Board of Alcoholic Beverage Control of the City of Newark and upon which you obtained your current plenary retail consumption license, you falsely stated 'No' in answer to Question No. 41 which asks: 'Have you or has any person mentioned in this application ever had any interest, directly or indirectly, in any alcoholic beverage license or permit in New Jersey or any other state which was surrendered, suspended, revoked or cancelled?', thereby

evading and suppressing the material fact that plenary retail consumption license held by you for these same premises, effective July 1, 1957, for the 1957-58 period, had been suspended by the Director of the Division of Alcoholic Beverage Control for ten (10) days, commencing October 14, 1957 for violation of Rule 1 of State Regulation No. 38; said false answer, statement, evasion and suppression being in violation of R.S. 33:1-25."

When the matter came on for hearing, Charge 3 was amended to read that the ten-day suspension was imposed "by the Municipal Board of Alcoholic Beverage Control of the City of Newark" instead of "by the Director of the Division of Alcoholic Beverage Control."

To substantiate Charges 1 and 2, the Division produced ABC agents S, B and C who participated in the investigation of the licensee's business.

Succinctly stated, the agents' testimony shows that on Wednesday, May 8, 1963, Agents S and B entered the licensed premises at 10:10 p.m. and seated themselves at the bar behind which two bartenders were serving twenty-eight patrons, among whom was a female called "Ethel." Shortly after their arrival the agents engaged Ethel in conversation, during which she commented on the homosexuality of some of the females present therein and informed the agents that she preferred men. When asked how much she charged for her services, she replied that she couldn't take care of them that night but would do so if they returned about 9 p.m. the following Friday. When the agent agreed to meet her there, she moved to the end of the bar. About 12:03 the following morning Bernard Rauch (Officer and majority stockholder of the corporate licensee) entered the tavern and went directly behind the bar. When Rauch approached the agents to serve them, Agent S pointed to Ethel and said to him, "we were trying to get fixed up with Ethel," to which he made no reply. At 12:10 a.m. Agent B asked Rauch for a pint of Seagram's "to go." Rauch complied but, before handing over the bottle, said "I will have to crack the seal in case somebody grabs you outside." Agent B placed the bottle with the cracked seal in his pocket, and he and Agent S departed.

At 9:15 p.m. Friday, May 10, 1963, Agents S, B, C, Sc and O, accompanied by two local detectives, arrived in the vicinity of the licensed premises. Agents S and B entered and took seats at the center of the bar and, within minutes, Agent C followed and seated himself at the bar opposite to them. The two bartenders and Rauch were serving the patrons, among whom was Ethel who greeted Agents S and B with "Hello! How are you? I'll be right over there." When she joined the agents, she asked Agent S if he was going to go with her and, when he replied in the affirmative, she said, "I use Chickie's apartment, and she won't be in for a while yet. We could leave after she gets here." Ethel then returned to where she had been seated. Agent B told Rauch, who was serving drinks to him and Agent S, that Ethel wanted to engage in sexual relations with Agent S and inquired if she was clean. Rauch replied "She is the cleanest girl in the place" and, when Agent B asked how much she charged, Rauch said "About a sawbuck." Continuing the questioning, Agent B asked Rauch if she would take him and Agent S for "fifteen bucks" and he replied "I don't know." Ethel rejoined the agents and said to Agent S, "I've got the keys for Chickie's apartment. We could leave about ten-fifteen. You go out one door, and

"I'll go out the other door." At this point Agent S told Rauch that Ethel was taking him to an apartment for sexual relations with him, and asked "I won't get rolled, will I" and Rauch assured him he wouldn't, saying "The price is O.K. She is the cleanest girl in town, and her apartment is O.K." Agent S then signalled Agent C who left the premises. Shortly thereafter Ethel left, and was followed by Agent S who joined her outside, and both proceeded to her apartment wherein he handed her a ten-dollar bill, the serial number of which had been previously recorded. Ethel placed the bill in her purse and disrobed. Just then, Agent S responding to a knock on the door, opened the door and admitted the other agents and the two police detectives. The identifiable bill was retrieved by one of the detectives who took Ethel in custody. Agents S and B and the other detective proceeded to the licensed premises and identified themselves to Rauch who voluntarily accompanied them to police headquarters where he admitted the sale of the bottle of whiskey for consumption off the premises during prohibited hours, but refused to comment on the prostitution violation.

A certified copy of the licensee's 1962-63 license application and the Division's file Rev. 5067, verifying the ten-day suspension, were marked in evidence to substantiate the violation alleged in charge 3.

Appearing on behalf of the corporate licensee were Bernard Rauch and Ethel. Succinctly stated, the testimony of Rauch respecting Charge 3 shows that the stock of the corporate licensee was transferred to him, his wife and another person on March 21, 1963, and that, prior thereto, he inquired of the secretary of the local issuing authority if there was "anything pending or down against this place of business in recent years... and he told me as far as he can see by his office there was nothing against this license at that time or the year previous." Rauch further testified that he had no knowledge that the license had been suspended for ten days by the local issuing authority in 1957.

Respecting Charge 2 he testified that "One of the two gentlemen asked to purchase a pint of Seagram's 7. I cracked the seal on a pint and put it on the bar, and they paid for it, and that was all. Then I started circling around the bar.... It was an ordinary sale; it happens most of the time. It was on the bar, the seal was broken, ready to be poured. I thought nothing else of it and walked away," and that he didn't see the agent put the bottle in his pocket and walk out.

Respecting charge 1, he testified that "I knew her (Ethel) as somebody came into the place 2 or 3 times or 4 times during the time--from the time I had taken it March 21 to this date in May;" that he never knew her to be an undesirable person; that, when someone asked him "Do you think a girl who would charge \$10 would take 2 men for \$15", he replied "You better ask that girl;" that on Friday night, May 10, he saw Ethel leave the premises unaccompanied and didn't see Agent S leave.

On cross examination Rauch testified that he permitted two or more patrons who were together to buy a pint bottle of whiskey to be consumed at the bar for the price of \$3 instead of charging them 40¢ per drink which would total \$6.40. He further testified that the agents asked him "What kind of a girl is Ethel" and that he replied "As far as I know, she is a clean person. I don't know anything much about the girl except she is a clean person," meaning her appearance; that the agents did say at one

time "We had a date with (Ethel). She did not show up," and that on another occasion one of the agents asked "Could I leave my money here" and that he said "No. This is no bank. I am not responsible for people's money."

Ethel testified in substance that on Wednesday night, May 8, 1963, after playing pool with a male companion in the licensed premises, she sat at the bar and conversed "on and off" with Agent S about pool and general conversation; that Agent S told her he would be in on Friday night, and she said "I will probably be here;" that on Friday, May 10, she was seated at the bar in the rear of the premises when the agents came in and took seats at the center of the bar; that she greeted them and they asked her if she cared for a drink; that "Bernie" served her when she told him she knew them; that about 10 p.m. she left to go to her girl friend's house; "She gave me the keys to go up and make myself a couple of sandwiches or something;" that Agent S followed and walked her to the apartment; that, when she opened the door, "Truthfully, he did come in with me" and asked her if she needed money; that "I told him I could use some because I was just recently out of the hospital. I had been sick. I wouldn't lie about that. I did tell him I needed money. So, he offered me ten dollars;" that "I went to the bathroom.... When I came out he was in his shorts. I'm not sure of his 'T' shirt. I know he was in his shorts ... I still had my slacks on and I had a blouse on;" that "I asked him what he was doing, and somebody knocked on the door right after."

On cross examination Ethel testified that on May 14, 1963, she appeared in Family Court and pleaded guilty to a charge of prostitution and received a suspended sentence of ninety days.

Considering the evidence adduced herein, I find as a fact that the testimony of the agents clearly and convincingly depicts what they observed, heard, said and did in the course of their investigation of the licensee's business, and I disbelieve the testimony of the licensee's agent that he was unaware of the illegal activities engaged in by the licensee's patrons. Although the documents marked in evidence are sufficient to support the allegation set forth in Charge 3, I find from the uncontroverted testimony of the licensee's agent respecting said charge that the present stockholders at the time the stock was transferred to them were unaware that the corporate licensee had a prior adjudicated record and that it appears there was no intention on their part to practice a fraud upon the local issuing authority. However, I conclude that the Division has established the truth of the charges by the necessary preponderance of the believable evidence, and I recommend that the licensee be adjudged guilty thereof.

Since there is no evidence to indicate that the licensee's agents procured the female in question for purposes of prostitution, or actually participated in the illicit arrangement, I further recommend that the license be suspended for sixty days on Charge 1 (Re 315 Halsey, Inc., Bulletin 1495, Item 5); fifteen days on Charge 2 (Re Ludwinski, Bulletin 1538, Item 12), with no additional penalty for the record of suspension for the similar violation which occurred within the past ten years in view of the change of stockholders (Re 677 Ocean Avenue Corporation, Bulletin 1531, Item 5), making a total suspension of seventy-five days. Because of the surrounding circumstances, I further recommend that no penalty be imposed with respect to Charge 3. Cf. Re Havlicek, Bulletin 1026, Item 8.

Conclusions and Order

Written exceptions to the Hearer's Report and written argument in support of the exceptions were filed with me by the licensee's attorneys within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits, the Hearer's Report and the exceptions and argument with respect thereto, I concur in the findings and conclusion of the Hearer and adopt his recommendations.

Accordingly, it is, on this 8th day of January 1964,

ORDERED that Plenary Retail Consumption License C-143, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to C. & S. Tavern Corp., t/a Jack's Star Bar, for premises 24 Tichenor Street, Newark, be and the same is hereby suspended for seventy-five (75) days, commencing at 2 a.m. Wednesday, January 15, 1964, and terminating at 2 a.m. Monday, March 30, 1964.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

2. DISCIPLINARY PROCEEDINGS - ORDER IMPOSING DEFERRED SUSPENSION.

In the Matter of Disciplinary Proceedings against )

MARTINE'S RESTAURANT (A CORP.) )  
t/a MARTINE'S RESTAURANT )  
5401 Route 38 )  
Pennsauken, N. J. )

Holder of Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Pennsauken and transferred during the pendency of these proceedings to )

ORDER

JOHN T. CANAL, INC. )  
t/a CANAL'S )  
5360 Route 38 )  
Pennsauken, N. J. )

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

BY THE ACTING DIRECTOR:

On October 31, 1961, the Director entered an order in the above matter deferring the license suspension of sixty days (for permitting indecent entertainment, language and conduct, permitting females at a public bar, and hostess activity) because it appeared that the licensed business was not then being conducted. Re Martine's Restaurant, Bulletin 1426, Item 3.

Records of the Division and reports of investigation disclose that the license was transferred on April 24, 1962 to Lexington Manor Company (a corporation) for premises 5401 Route 38;

on the same date to John T. Canal, t/a Canal's Liquor Mart, for premises 5360 Route 38; and on October 29, 1963, to John T. Canal, Inc., t/a Canal's, for premises 5360 Route 38; that the intervening transferees either conducted no business or no substantial business; and that the present licensee is conducting the licensed business on a full scale basis. Consequently, I am satisfied that the deferred suspension may now be imposed.

Accordingly, it is, on this 13th day of January, 1964,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Pennsauken to John T. Canal, Inc., t/a Canal's, for premises 5360 Route 38, Pennsauken, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 a.m. Monday, January 20, 1964, and terminating at 2:00 a.m. Friday, March 20, 1964.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - HINDERING INVESTIGATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

SANTE & JULIA SANTANELLO  
t/a DEAL FOOD & LIQUOR STORE  
112 Norwood Avenue  
Deal, N. J.

)  
)  
) CONCLUSIONS  
) AND ORDER  
)

Holder of Plenary Retail Distribution License D-2, issued by the Board of Commissioners of the Borough of Deal.

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Philip Newman, Esq., Attorney for Licensees.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensees plead guilty to charges alleging that on Sunday, November 24, 1963, they (1) sold a 4/5 quart bottle of brandy for off-premises consumption, in violation of Rule 1 of State Regulation No. 38, and (2) hindered investigation (refusal of access to licensed premises), in violation of R.S. 33:1-35.

Licensees have a previous record of suspension of license by the municipal issuing authority for five days, effective September 10, 1954, for violation of State Regulation No. 38.

The prior record considered, the license will be suspended on the first charge for twenty days (Re Lou's Tavern, Inc., Bulletin 1526, Item 7) and on the second charge for ten days (Re Page, Bulletin 1454, Item 4) or a total of thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 6th day of January, 1964,

ORDERED that Plenary Retail Distribution License D-2, issued by the Board of Commissioners of the Borough of Deal to Sante and Julia Santanello, t/a Deal Food & Liquor Store, for premises 112 Norwood Avenue, Deal, be and the same is hereby suspended for twenty-five (25) days, commencing at 9:00 a.m. Monday, January 13, 1964, and terminating at 9:00 a.m. Friday, February 7, 1964.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

4. DISCIPLINARY PROCEEDINGS - RETAILER FURNISHING REBATE - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against	)	
	)	
SAMUEL CHERLIN t/a BENSON & CO. 233 Broad Street Elizabeth, N. J.	)	CONCLUSIONS AND ORDER
	)	
Holder of Plenary Retail Distribution License D-13, issued by the City Council of the City of Elizabeth.	)	

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 Weltchek & Weltchek, Esqs., by Harry Weltchek, Esq., Attorneys for Licensee.  
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"Licensee pleaded not guilty to the following charge:

'On August 29, 1963, you, directly or indirectly, furnished a gift, rebate or unauthorized discount, in the form of money, with the retail sale of alcoholic beverages; in violation of Rule 20 of State Regulation No. 20.'

"To substantiate the charge the Division called Agents S, D and St as its witnesses.

"Agent S testified that on August 27 and August 29, 1963, he visited the licensed premises to investigate a complaint that the licensee was cutting his prices; that on his first visit he asked the licensee (identified at the hearing) for a six-pack of Budweiser beer and a fifth of J & B Scotch (minimum consumer resale prices are \$1.25 and \$7.15 respectively); that the licensee placed the beer on the counter; that the licensee reached into his (Agent S') shirt pocket and extracted two slips of paper bearing the name of a local hospital; that in a conversation that ensued he told Mr. Cherlin that he was employed as a garage serviceman by the hospital and that he exhibited to the licensee a card which bore a fictitious name (Danny Salerno) to verify said employment.

"Agent S further testified that the licensee indicated to him that the items amounted to \$8.40 and stated that, if he were certain of his employment with the hospital, 'I could give you a good break on liquor;' that the licensee went on to say that he had to be very careful about giving discounts; that he would like to do business with him in the future; that he placed \$8 on the counter; that the licensee stated, 'Give me the \$8, and you'll owe me forty cents. The next time you come back I'll know you better, and I'll return the forty cents and make an additional adjustment;' that he refused to accept the licensee's offer and that he concluded his visit with a purchase of the beer only.

"Agent S further testified that on August 29, 1963, at about 11:50 a.m., he returned to the vicinity of the licensed

premises with Agent D; that he alone, in the possession of \$8.40, entered the premises; that Lillian Heimberg (daughter of the licensee, identified at the hearing) was the clerk on duty; that he asked her for a six-pack of Budweiser beer and a fifth of J & B Scotch; that he inquired about the licensee; that immediately thereafter the licensee entered the store from a rear room; that he asked the licensee the prices of the items; that the licensee informed him they amounted to \$8.40; that he paid this sum to Mrs. Heimberg who deposited the money in the cash register; that he made two attempts to leave the premises and was called back on each occasion by the licensee; that on his second return the licensee was behind the counter and Mrs. Heimberg had departed from the store; that the licensee, following a conversation with him, took some change from the cash register, came from behind the counter and gave him seventy-two cents and stated, 'This is for you. I'm giving you a good break;' that he thanked the licensee and stated that he would advise the fellows at the garage that they could make similar purchases; that the licensee stated, 'Don't send anybody. You come for it. Tell the boys at the garage if they want anything, to tell you and give you the money, and you can come for it. I don't know them. I only know you. I have to be careful, very careful,' following which he left the premises and rejoined Agent D.

"Agent S further testified that he, in the company of Agent D, returned to the premises, identified themselves to the licensee; that the licensee, upon seeing their credentials, stated 'My daughter charged the full price, \$8.40, isn't that true?'; that the licensee denied that he had given him any rebate; that in the conversation that followed the licensee stated, 'What are you trying to do to me? Why are you laying for me? Everybody in this town gives breaks below the fair prices on stock. The customers ask for it. You have to do business. Things are rough. Some weeks I go home without even a week's pay;' that he asked the licensee how he arrived at the figure of seventy-two cents and that the licensee replied, 'I'm in enough trouble now. Don't ask me any questions like that,' following which he and Agent D left the premises.

"On cross examination Agent S stated that on his second visit to the licensed premises he wore an ambulance jacket bearing the name of the local hospital; that the licensee was hesitant about giving him any rebate; that, upon request by the licensee, he identified his superior at the hospital garage as George; that he also gave the licensee the telephone number of the garage; that the licensee verified the number with the telephone directory; that the licensee dialed the number; that the licensee asked for George; that the licensee spoke with Agent St, who was stationed at the telephone by pre-arrangement; that the licensee confirmed his employment with the hospital, following which the licensee stated 'You're okay. I just wanted to check,' and gave him the seventy-two cents.

"Agent D testified that on August 29, 1963, at about 11:50 a.m., he and Agent S arrived in the vicinity of the licensed premises; that Agent S entered the premises; that he observed Agent S walk to the counter located on the left side of the premises; that he observed Mrs. Heimberg standing behind the counter; that he took a post of observation on the opposite side of the street of the licensed premises, the front door of which was open; that he had a view of the interior of the licensed premises; that he observed Agent S in conversation with Mrs. Heimberg; that several minutes later he observed the licensee and Agent S standing on the customers' side of the

counter and Mrs. Heimberg behind it; that shortly thereafter he saw Agent S pick up a brown paper bag from the counter; that he observed Mrs. Heimberg leave the premises, and substantially corroborated the testimony of Agent S except for the conversations Agent S had with Mrs. Heimberg and the licensee.

"On cross examination Agent D testified that he remained at his post of observation for about eighteen minutes before he was rejoined by Agent S; that the traffic was not heavy during said period; that his view of the licensed premises was obstructed from time to time by passing vehicles; that the telephone used by the licensee was located in the rear of the store about twelve to fourteen feet from the cash register and between ninety and one hundred feet from his post of observation; that he had had a clear view of the same, and that he did not observe any customers enter the licensed premises during his watch.

"Agent St testified that on August 29, 1963, at 11:45 a.m., by pre-arrangement with Agents S and D, he stationed himself alongside of a telephone in the garage of a local hospital; that at about 12:05 p.m. the telephone rang; that he answered the same; that he recognized the caller as a person with a male's voice; that in response to inquiries by this individual he identified himself and Danny Salerno as employees at the garage and George Stover as their superior, and informed the caller that Salerno was out and was expected in a half hour.

"Samuel Cherlin (the licensee) denied the statements attributed to him by the agents; denied he had given any rebate to Agent S; denied he promised to give Agent S discounts on future purchases; denied the money he gave Agent S represented ten per cent. on the purchase price of the Scotch whisky; denied that on August 29, 1963, aforesaid, he stopped Agent S from leaving the premises as testified by Agent S; denied that it was possible for Agent D to make the observations to which he testified; denied the alleged violation, and further testified that Agent S made two visits (August 27 and August 29, 1963) to the licensed premises; that on both occasions Agent S wore a uniform bearing the name of a local hospital; that on his first visit Agent S ordered a six-pack of Budweiser beer and a fifth of J & B Scotch; that he informed Agent S that the items amounted to \$8.40; that Agent S placed \$8 on the counter and stated that was all the money he had; that, believing Agent S was an employee of the hospital and relying on Agent S' representation that he frequently passes the licensed premises, he proposed that Agent S pay the balance of forty cents the next time he was in the neighborhood; that neither he nor Agent S made any reference to a discount or a rebate, and that Agent S ended this visit with a purchase of the beer only.

"The licensee further testified that on August 29, 1963, he came into his licensed premises shortly after Agent S had entered the same; that Agent S and two female patrons were on the customers' side of the counter and his daughter was behind the same; that his daughter informed him that Agent S had ordered a bottle of scotch whisky and a six-pack of beer; that the items amounted to \$8.40; that Agent S had asked for a discount; that he refused to give any discount to Agent S; that Agent S paid the \$8.40 (minimum consumer retail price); that at the request of Agent S he called the hospital's garage; that a male voice answered the telephone and informed him that Danny Salerno was an employee of the hospital, following which Agent S stated to

him that he was purchasing the alcoholic beverages for another person for whom he was running an errand; that Agent S suggested that he be given a gratuity for this service; that he withdrew seventy cents from his pocket and gave it to Agent S who then left the premises.

"The licensee further testified that about twenty minutes later Agent S, accompanied by Agent D, returned to the premises; identified themselves; informed him of the alleged violation and placed some change on the counter; and that he denied the alleged violation, following which the agents left the premises.

"Lillian Heimberg (daughter of the licensee) testified that she was in the licensed premises on August 29, 1963, from the time Agent S entered until he left, and substantially corroborated the testimony of licensee with respect to what transpired during said period of time.

"On redirect examination Agent S denied he asked Mrs. Heimberg for a discount; denied he asked the licensee for a gratuity and denied that Mrs. Heimberg was present when the licensee handed him the seventy-two cents.

"Agent D, on redirect examination, testified that Mrs. Heimberg was not in the licensed premises when he observed the licensee use the telephone and when he observed the licensee hand something to Agent S.

"On recross examination Agent D reaffirmed his testimony.

"I have carefully considered all of the evidence and argument of counsel at the conclusion of the hearing and find as a fact that on August 29, 1963, the licensee did give a rebate of seventy-two cents to Agent S on the alcoholic beverages purchased by him. I am not impressed with the testimony of the licensee that the money he gave Agent S represented a gratuity and not a discount. I find that the agents gave an accurate and truthful account of what transpired in this case, and am unable to find any inconsistencies or defects in their testimony. I cannot conceive that they would conspire against the licensee. Under the circumstances I conclude that the Division has sustained the burden of establishing licensee's guilt by a fair preponderance of the believable evidence, and I recommend, therefore, that the licensee be found guilty as charged.

"Licensee has a prior adjudicated record. Effective November 16, 1953, his license was suspended by the Director for fifteen days for sale below filed price (Re Cherlin, Bulletin 992, Item 4); and effective July 6, 1959, his license was again suspended by the Director for fifteen days for a similar violation (Re Cherlin, Bulletin 1288, Item 3).

"Since the violation alleged is in effect equivalent to sale below filed price, considering the prior record of suspension for substantially similar violation between five and ten years ago and within the past five years, it is further recommended that an order be entered suspending the license for twenty-five days. Cf. Re Mack Drug Co., Inc., Bulletin 1433, Item 3."

Pursuant to Rule 6 of State Regulation No. 16, exceptions to the Hearer's Report and written argument thereto were filed with me by the attorneys for the licensee.

Having carefully considered the entire record herein, including the transcript of the proceedings, the exhibit, oral argument of counsel before the Hearer, the Hearer's Report and exceptions and written argument thereto, I concur in the conclusions of the Hearer and adopt them as my conclusions herein. Hence I find the licensee guilty as charged.

Accordingly, it is, on this 13th day of January, 1964,

ORDERED that Plenary Retail Distribution License D-13, issued by the City Council of the City of Elizabeth to Samuel Cherlin, t/a Benson & Co., for premises 233 Broad Street, Elizabeth, be and the same is hereby suspended for twenty-five (25) days, commencing at 9:00 a.m. Monday, January 20, 1964, and terminating at 9:00 a.m. Friday, February 14, 1964.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

GERALD COHEN )  
t/a JERRY'S ROYAL GARDENS )  
30 Bridge Street )  
Paterson 1, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-266, issued by the Board of Alcoholic Beverage Control for the City of Paterson. )

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Robert Goodman, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 4, 6 and 21, 1963, he sold various bottles of alcoholic beverages during prohibited hours for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the Director (1) for ten days effective April 3, 1950, for sale to a minor (Re Cohen, Bulletin 871, Item 2), (2) for fifteen days effective April 27, 1953, for sale in violation of State Regulation No. 38 (Re Cohen, Bulletin 968, Item 2), and (3) for ninety days effective July 5, 1961, for sale in violation of State Regulation No. 38, employing criminally disqualified person and employing minor bartender. Cohen v. Paterson, Bulletin 1404, Item 2,

The prior record of suspension of license for dissimilar violation in 1950 disregarded because occurring more than five years ago and the prior record of suspension for similar violation in 1953 likewise disregarded because occurring more than ten years ago but the prior record of suspension for similar violation in 1961 considered, the license will be suspended for thirty days, with

remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Mandel & Lichenstein, Bulletin 1536, Item 5.

Accordingly, it is, on this 13th day of January, 1964,

ORDERED that Plenary Retail Consumption License C-266, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Gerald Cohen, t/a Jerry's Royal Gardens, for premises 30 Bridge Street, Paterson, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. Monday, January 20, 1964, and terminating at 3:00 a.m. Friday, February 14, 1964.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE -  
LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

MERIT LIQUOR STORES, INC. )  
t/a MERIT LIQUOR STORES, INC. )  
314 Palisade Avenue )  
Cliffside Park, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distribution License D-13, issued by the Mayor and Council of the Borough of Cliffside Park. )

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Licensee, by Frank Aiello, Secretary, Pro se.  
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 13, 1963, it sold a quart bottle of whiskey below filed price, in violation of Rule 5 of State Regulation No. 30.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Bartolini Bar & Liquor Store, Inc., Bulletin 1541, Item 6.

Accordingly, it is, on this 13th day of January, 1964,

ORDERED that Plenary Retail Distribution License D-13, issued by the Mayor and Council of the Borough of Cliffside Park to Merit Liquor Stores, Inc. for premises 314 Palisade Avenue, Cliffside Park, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. Monday, January 20, 1964, and terminating at 9:00 a.m. Saturday, January 25, 1964.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

## 7. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM JULY 1, 1963 THROUGH DECEMBER 31, 1963

	1st Quarter July, Aug., Sept.	2nd Quarter Oct., Nov., Dec.	Total
<b>ARRESTS:</b>			
Total number of persons arrested	66	55	121
Licensees and employees	37	30	67
Bootleggers	29	25	54
<b>SEIZURES:</b>			
Motor vehicles - cars	3	4	7
- fishing boats	1	3	4
Stills - 50 gallons or under	3	2	5
Mash - gallons	665	875	1,540
Distilled alcoholic beverages - gallons	1,900.954	274.964	2,175.918
Wine - gallons	16.598	7.500	24.098
Brewed malt alcoholic beverages - gallons	78.138	45.028	123.166
<b>RETAIL LICENSEES:</b>			
Premises inspected	2,529	2,829	5,358
Premises where alcoholic beverages were gauged	1,469	1,173	2,642
Bottles gauged	22,749	17,152	39,901
Premises where violations were found	239	281	520
Violations found	314	386	700
Unqualified employees	99	134	233
Reg. #38 sign not posted	75	78	153
Application copy not available	41	59	100
Prohibited signs	13	19	32
Other mercantile business	16	9	25
Disposal permit necessary	7	8	15
Improper beer taps	4	1	5
Other violations	59	78	137
<b>STATE LICENSEES:</b>			
Premises inspected	76	62	138
License applications investigated	25	16	41
<b>COMPLAINTS:</b>			
Complaints assigned for investigation	1,108	1,036	2,144
Investigations completed	1,032	1,028	2,060
Investigations pending	(158)	168	168
<b>LABORATORY:</b>			
Analyses made	324	317	641
Refills from licensed premises - bottles	111	110	221
Bottles from unlicensed premises	64	36	100
<b>IDENTIFICATION:</b>			
Criminal fingerprint identifications made	30	21	51
Persons fingerprinted for non-criminal purposes	1,096	741	1,837
Ident. contacts made w/other enforcement agencies	623	501	1,124
MV identifications via N.J. State Police teletype	3	1	4
<b>DISCIPLINARY PROCEEDINGS:</b>			
Cases transmitted to municipalities	43	31	74
Violations involved	50	33	83
Sale during prohibited hours	30	16	46
Sale to minors	8	16	24
Failure to close prem. during prohibited hours	5	1	6
Failure to afford view into prem. during prohibited hours	4	-	4
Possessing chilled beer (DL licensee)	2	-	2
Sale to non-members by club	1	-	1
Cases instituted at Division	68	57*	125*
Violations involved	104	83	187
Sale during prohibited hours	18	13	31
Possessing liquor not truly labeled	14	15	29
Sale to minors	14	4	18
Permitting lottery activity on premises	3	8	11
Sale below filed price	2	7	9
Permitting bookmaking on premises	4	4	8
Hindering investigation	3	5	8
Conducting business as a nuisance	4	3	7
Sale to intoxicated persons	5	1	6
Permitting immoral activity on premises	4	1	5
Fraud in application	4	2	6
Furnishing unlawful inducements to retailers	4	-	4
Failure to close premises during proh. hours	3	-	3
Fraud and front	2	1	3
Permitting foul language on premises	2	1	3
Sale outside scope of license	3	-	3
Retailer-to-retailer sales	-	3	3
Solr-permittee engaging in conduct prohibited to employer	2	-	2
Permitting hostess activity on premises	2	-	2
Permitting gambling on premises	1	1	2
Possessing contraceptives on premises	1	1	2
Substituting alc. bev. other than ordered	2	1	3
Unauthorized transportation	-	2	2
Storage off licensed premises	-	2	2
Single instance of other violations	6	8	14

\*Includes one cancellation proceeding - license improvidently issued to club not bona fide.

	1st Quarter		2nd Quarter		Total
	July	Aug., Sept.	Oct., Nov.	Dec.	
<b>DISCIPLINARY PROCEEDINGS (Continued)</b>					
Cases brought by municipalities on own initiative and reported to Division	71		58		129
Violations involved	88		68		156
Sale to minors	39		30		69
Sale during prohibited hours	15		5		20
Permitting brawl, etc. on premises	8		10		18
Failure to close prem. during prohibited hours	6		1		7
Hindering investigation	2		3		5
Conducting business as a nuisance	1		2		3
Act of violence	1		2		3
Permitting gambling on premises	4		1		5
Permitting lottery activity on premises	3		2		5
Permitting bookmaking on premises	3		-		3
Sale to intoxicated persons	-		3		3
Permitting gambling paraphernalia on premises	2		-		2
Permitting minors on premises unaccomp. by parents or guardians (local reg.)	2		-		2
Failure to afford view into prem. during prohibited hours	-		2		2
Permitting immoral activity on premises	1		1		2
Employing persons w/o ident. card (local reg.)	-		2		2
Single instance of other violations	1		4		5
<b>HEARINGS HELD AT DIVISION:</b>					
Total number of hearings held	114		106		220
Appeals	12		11		23
Disciplinary proceedings	72		64		136
Eligibility	23		26		49
Seizures	6		2		8
Tax revocations	-		1		1
Applications for license	1		2		3
<b>STATE LICENSES AND PERMITS ISSUED:</b>					
Total number issued	5,010		4,502		9,512
Licenses	624		11		635
Solicitors' permits	179		97		276
Employment permits	1,080		713		1,793
Disposal permits	268		217		485
Social affair permits	1,320		1,207		2,527
Wine permits	1		816		817
Miscellaneous permits	665		624		1,289
Transit insignia	811		775		1,586
Transit certificates	62		42		104
<b>OFFICE OF AMUSEMENT GAMES CONTROL:</b>					
Licenses issued	190		70		260
Premises inspected	880		--		880
Premises where violations were found	22		--		22
Number of violations found	24		--		24
Enforcement files established	77		57		134
Disciplinary proceedings instituted	1		-		1
Violations involved	2		-		2
Redemption of prize for money	1		-		1
Redemption for prize other than merchandise	1		-		1

EMERSON A. TSCRUPP  
Acting Director of Alcoholic Beverage Control  
Acting Commissioner of Amusement Games Control

Dated: January 16, 1964

8. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE AND NUMBERS BETS) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )  
 )  
 East State Bar, Inc. )  
 t/a State Bar & Grill )  
 1320 E. State Street )  
 Hamilton Township )  
 PO Trenton 9, N. J. )  
 )  
 Holder of Plenary Retail Consumption License C-41, issued by the Township Committee of the Township of Hamilton, County of Mercer )  
 ----- )

CONCLUSIONS AND ORDER

Henry F. Gill, Esq., Attorney for Licensee.  
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on October 24 and 25, 1963, it permitted the acceptance of horse race and numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days, effective August 1, 1960, for sale to minors.

The prior record considered, the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Slobodian, Bulletin 1541, Item 10.

Accordingly, it is, on this 6th day of January, 1964,

ORDERED that Plenary Retail Consumption License C-41, issued by the Township Committee of the Township of Hamilton, County of Mercer, to East State Bar, Inc., t/a State Bar & Grill, for premises 1320 E. State Street, Hamilton Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, January 13, 1964, and terminating at 2:00 a.m. Friday, February 7, 1964.

EMERSON A. TSCHUPP  
 ACTING DIRECTOR

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
 Black Horse Tavern, Inc.  
 t/a Black Horse Tavern  
 7618-20 Broadway  
 North Bergen, N. J.  
 Holder of Plenary Retail Consumption License C-8, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen

CONCLUSIONS AND ORDER

Licensee, by Paul Kalo, President, Pro se.  
 David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on November 4, 1963, it possessed alcoholic beverages in seven bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Hala Corporation, Bulletin 1525, Item 4.

Accordingly, it is, on this 6th day of January, 1964,

ORDERED that Plenary Retail Consumption License C-8, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen to Black Horse Tavern, Inc., t/a Black Horse Tavern, 7618-20 Broadway, North Bergen, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. Monday, January 13, 1964, and terminating at 3:00 a.m. Friday, February 7, 1964.

EMERSON A. TSCHUPP  
 ACTING DIRECTOR

10. STATE LICENSES - NEW APPLICATIONS FILED.

St. Remy & Cie., 591-629 Rahway Ave, Union, N. J.  
 Application filed February 5, 1964 for place-to-place transfer of Plenary Wholesale License W-95 from Room 1209, 744 Broad St., Newark, N.J.

Renfield Importers, Ltd., 591-629 Rahway Ave., Union, N. J.  
 Application filed February 5, 1964 for place-to-place transfer of licensed premises and salesroom on Plenary Wholesale License W-99 from Room 1210, 744 Broad Street, Newark, N. J.

Shore Neighborhood Home Beverage Service, Rear 505 Old Post Road, Box 29, Edison, N. J.  
 Application filed February 7, 1964 for person-to-person, place-to-place transfer of State Beverage Distributor's License SBC-86 from Delsea Distributing Co., N/S Wheat Rd., approx. 2815.07 Ft. Easterly from Center of Brewster Rd., Buena Boro, N. J.