

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

BULLETIN 1409

September 20, 1961

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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 1409

September 20, 1961

1. APPELLATE DECISIONS - LOS PANCHOS, INC. v. NEWARK (Case No. 2).

CASE NO. 2)	
LOS PANCHOS, INC., t/a CLUB)	
COZY,)	
)	
Appellant,)	
)	ON APPEAL
v.)	CONCLUSIONS
)	AND ORDER
MUNICIPAL BOARD OF ALCOHOLIC)	
BEVERAGE CONTROL OF THE CITY)	
OF NEWARK,)	
)	
Respondent.)	

Waldor & Beckerman, Esqs., by Milton W. Waldor, Esq., Attorneys
for Appellant
Vincent P. Torppey, Esq., by Richard Walsh, Esq., Attorney for
Respondent

BY THE DIRECTOR:

The Hearer has submitted the following Report herein:

"This is an appeal from the action of respondent on March 8, 1961, whereby it denied appellant's application for renewal of its plenary retail consumption license for the 1960-61 licensing year for premises 57-59 Parkhurst Street (and 2nd floor addition), Newark.

"Upon the filing of this appeal the Director entered an order further extending the term of the 1959-60 license held by appellant until the entry of a further order herein.

"This matter was the subject of a prior appeal between the same parties. In said appeal the Director, on October 25, 1960, entered an order remanding the case to respondent in order that it might schedule a hearing and then proceed pursuant to the provisions of Sec. 3.34 of the Revised Ordinances of Newark. Los Panchos, Inc. v. Newark, Bulletin 1367, Item 2.

"In accordance with said remand, respondent held a hearing on March 1, 1961, 'with reference to disturbance complaints on March 20 and April 3, 1960, and noise complaints by neighbors on June 2, 1960.' On March 8, 1961, respondent denied the application for renewal.

"At the hearing held herein a transcript of the evidence taken at the hearing held on March 1, 1961, and the exhibits presented at said hearing were introduced into evidence. No additional evidence was presented by appellant or respondent.

"At the hearing below Francis Gonzales and members of the Newark Police Department were called by respondent Board to

testify as to the altercation on March 20, 1960. Gonzales testified that, while he was playing pool in the rear room on the first floor of the licensed premises, some guy who was standing on the side came over and hit him with something that looked like a stone; that he tried to defend himself and some of the people in the rear room jumped on him, tore his suit and cut his face. He further testified that he left the premises, telephoned for the police from outside, re-entered the premises with the police when they arrived and was taken to a hospital. On cross-examination he testified that Mr. Marty (Panchos) was tending bar in the front barroom and was not in the rear room when the fight started. He admitted that, when he next entered the premises a few months later, Marty refused to serve him. Patrolman John Spirito testified that on the evening in question, in response to a call he went to the vicinity of the licensed premises where he met Gonzales outside and entered with him. He further testified that, when he entered, the premises were quiet but said that Marty admitted that there had been a fight. Detective Edward Fox testified that on the following day he took a statement from Gonzales who then signed a warrant against two individuals but not against Marty.

"At the hearing below, Mr. and Mrs. Tynes, Mrs. Bell and members of the Newark Police Department were called by respondent Board to testify as to the altercation on April 3, 1960. Mr. and Mrs. Tynes and Mrs. Bell testified that on the evening in question they were in the dance hall on the second floor of the licensed premises; that Mrs. Bell bumped into another woman; that they argued; that the other woman or someone else hit Mrs. Bell on the side of the face with a beer bottle, and that Mrs. Bell was taken to a hospital where she was treated for cuts on the face. They further testified that, as they were leaving, Marty came upstairs and asked what happened. Patrolman Mangisi testified that on the evening in question he answered a disturbance call and went to the barroom of the licensed premises; that things were quiet there; that he spoke to Marty who said the disturbance was probably upstairs; that he went upstairs where he observed that Mrs. Bell was bleeding and took her to the hospital.

"At the hearing below, three women who reside near appellant's premises and three members of the Newark Police Department were called by respondent Board to testify as to the noise complaints. The three women had written letters to the Board in May and June 1959 complaining as to noise, and at the hearing they testified that the noise from the dance hall was then very bad. The three police officers testified that they investigated noise complaints between July and October 1959 and then heard an excessive amount of noise from the dance hall. The women and one of the police officers who checked the premises in February 1961 said there has been no excessive noise recently.

"At the hearing below, Oscar Marty (owner of 50% of the stock of Los Panchos, Inc. and manager of the licensed premises) testified, on behalf of the appellant, that on March 20, 1960, he was tending bar in the barroom when he heard noises in the rear room; that he went there and broke up a fight between Gonzales and some other patrons, and that Gonzales left and came back in about fifteen minutes with police officers. He further testified that on April 3, 1960, he was tending bar in the barroom when he was told that there was a fight upstairs; that he went up to the dance hall where he saw a man with a beer bottle in his hand and a woman who had 'a scratch around her eyes' and that he 'told the boys to call the police.' As to the noise complaints, he testified that, during the summer of 1959, he nailed the windows in the dance hall so that they cannot be opened

and sound-proofed the windows to deaden the noise. Pierson Harris, who is in charge of the dance hall on week-ends, testified that on April 3, 1960, Mrs. Bell was 'bleeding from her face' when he first saw her, but that he had not seen the altercation. Seven individuals who patronize appellant's premises testified that the premises are properly conducted and that there is no excessive noise on the premises.

"The record herein discloses that officers of appellant corporation were summoned to appear before respondent Board on one or more occasions regarding noise complaints, but that no disciplinary proceedings were ever instituted by the Board against appellant. It further appears that, when the license was transferred to appellant, the dance hall was excluded but that the license was subsequently extended by the Board to include the dance hall.

"After considering the evidence, exhibits and brief submitted by appellant's attorney, I conclude that the principal difficulty which confronts appellant arises from the fact that the dance hall is part of the licensed premises. This is not a disciplinary proceeding and, hence, it is not necessary to determine the guilt or innocence of appellant as to the events which took place on March 20, 1960, and April 3, 1960. However, all the evidence as to such events is material in deciding whether appellant's license should be renewed. Both events appear to have been sudden flare-ups, which are not likely to occur again if the license is restricted to the first floor. At the hearing below, Oscar Marty stated that appellant was willing to eliminate the dancehall as part of the licensed premises. It is recommended, therefore, that an order be entered herein reversing respondent's action and directing respondent to issue a renewal of appellant's license provided that appellant promptly files a petition with respondent Board requesting that its pending application for renewal be amended to exclude the second floor of premises at 57-59 Parkhurst Street, in accordance with the procedure set forth in Re Daly, Bulletin 171, Item 3".

Although no exceptions to the Hearer's Report were filed with me, I, on my own motion, pursuant to Rule 14 of State Regulation No.15, scheduled oral argument, which was heard on July 11, 1961.

It would appear that respondent based its decision to deny renewal of the license upon two altercations which occurred in March and April 1960. The altercation on March 20 resulted from an argument between two patrons who were playing pool in another room apart from the barroom. From the evidence it does not seem that any of appellant's employees should have anticipated or could have prevented this altercation. The testimony indicates that the appellant rented out the second floor of the premises to associations over weekends for dances with music supplied by an orchestra, and that the licensee itself did not conduct such dances; that the occurrence of April 3 resulted during an association dance when two women engaged in a fight. It is admitted that no members of the licensee corporation or its employees were in that part of the premises at the time but, when the disturbance was called to the attention of one "Panchos", he promptly telephoned the police who responded and took a Mrs. Bell to the hospital for treatment.

The aforesaid events happened several months prior to the renewal date, but no disciplinary action against the licensee was taken at that time. More than three months following

the first offense respondent introduced testimony based upon statements and witnesses produced through police records of the occurrences in question, with the licensee having little, if any, opportunity to obtain witnesses in its behalf refuting the testimony before the local Board. Had the licensee, as a result of disciplinary proceedings promptly instituted, been convicted of the offenses charged, and had respondent based its conclusion not to renew upon said convictions, I might well have reached a different result than I do. In arriving at my decision I am giving considerable weight, also, to the fact that appellant has no prior adjudicated record.

After carefully considering the evidence, exhibits, appellant's brief and the oral argument, I concur in the findings and conclusions of the Hearer and accept his recommendation that the action of respondent should be reversed, provided the second floor of the premises is excluded from the description of the licensed premises.

The records of this Division show that appellant has filed with respondent an application for renewal for the 1961-62 licensing year; that in said application the description of the premises to be licensed excludes the second floor; that respondent denied said application; that appellant has filed with me an appeal from said action and that said appeal is scheduled to be heard on July 28, 1961. The records further show that, upon the filing of said appeal, I entered an order requiring respondent to show cause on July 28, 1961, why the term of the license held by appellant should not be extended pending determination of the appeal and extending the term of appellant's license until my further order. If, upon the return of the order to show cause, it is decided that the license should be extended pending determination of the appeal, the order then entered will provide that the second floor is excluded from the licensed premises.

The license in question has expired by its terms. Hence, the issuance of a license for the 1960-61 licensing year can be for record purposes only.

Accordingly, it is, on this 24th day of July 1961,

ORDERED that the action of respondent be reversed provided appellant forthwith amends its application for the 1960-61 licensing year to exclude the second floor and respondent is thereupon directed to issue to appellant a license for the 1960-61 licensing year in accordance with the amended application, for record purposes only.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - HY-WAY BAR & GRILL v. NEWARK.

Hy-Way Bar & Grill (a corp.),)
Appellant,)

v.)

Municipal Board of Alcoholic)
Beverage Control of the City)
of Newark,)
Respondent.)

On Appeal

O R D E R

-----)
George R. Sommer, Esq., Attorney for Appellant
Vincent P. Torppey, Esq., Attorney for respondent.

BY THE DIRECTOR:

Appellant appealed from respondent's action suspending its License C-356 (issued for premises 55 Bridge Street, Newark) for ten days, effective May 22, 1961. Said suspension was imposed after appellant pleaded non vult to a charge of selling alcoholic beverages during prohibited hours in violation of Rule 1 of State Regulation No. 38. The petition of appeal alleged that the penalty was excessive.

Upon the filing of the appeal I entered an order staying the effect of the suspension pending entry of further order herein. R.S. 33:1-31.

On July 17, 1961, prior to hearing herein, the attorneys for both parties filed a stipulation of dismissal. No reason appearing to the contrary,

It is, on this 18th day of July 1961,

ORDERED that the ten-day suspension, stayed by my order as aforesaid, be and the same is hereby restored to become effective against said License C-356, as renewed, at 2 a.m. Monday, July 24, 1961, and to terminate at 2 a.m. Thursday, August 3, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - SALE TO NON-MEMBERS-
HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 40 DAYS.

In the Matter of Disciplinary)
Proceedings against)

Walter J. Conley Lodge #1379,)
I.B.P.O.E. of W.)
91 Throckmorton Street)
Freehold Borough, New Jersey)

CONCLUSIONS

AND

Holder of Club License CB-2 (for the)
1960-61 and 1961-62 licensing years),)
issued by the Mayor and Council of)
the Borough of Freehold)
-----)

ORDERS

Thomas F. Shebell, Esq., by Thomas F. Shebell, Jr., Esq.,
Attorney for Defendant-Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant entered a plea of non vult to the following charges:

- "1. On Friday night, April 21, 1961, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to persons not bona fide members of your club or bona fide guests of any such members; in violation of Rule 8 of State Regulation No. 7.
- "2. On Friday night, April 21 and early Saturday morning, April 22, 1961, you, through officers, directors, trustees, other governing officials and members of your Lodge, through persons employed on your licensed premises and through other persons in your behalf, failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation, inspection and examination at your licensed premises then and there being conducted by investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of R. S. 33:1-35."

At 11:35 p.m., April 21, 1961, one of two ABC agents assigned to investigate defendant's licensed premises was admitted to defendant's club and was proceeding toward the bar when he was asked to sign his name on a large yellow pad. The agent signed a fictitious name and went into the club bar where a barmaid and a bartender were on duty. There were about 85 couples on the premises when the agent entered and, thereafter, others arrived and signed their names on the pad, but no one checked the names against the membership list. The bartender served a twelve-ounce bottle of beer to the agent, who sipped his drink slowly. At 11:50 p.m., as prearranged, the other agent rang the buzzer and was admitted to the club where he showed the doorman his badge and proceeded to the bar. At this point, both agents identified themselves to the barmaid, who alone was tending bar, and asked her to call the bartender. In the meantime, a portion of the beer sold to the agent was poured into a sample bottle to be used for evidential purposes

While the agents were questioning the barmaid, about twenty-five people surrounded them and a tall male, who described himself as the Grand Knight, snatched the sample bottle from the bar. The agents warned the Grand Knight that unless the sample bottle with its contents was returned, the organization would be charged with hindering. The sample bottle was never returned. A male, described as the Exalted Ruler, asked the agents to follow him to the rear of the club. Since there was a small amount of beer left in the bottle sold to the agent, he put the bottle in his pocket and both agents walked toward the back room. About fifteen persons crowded into the room and the agents requested the Exalted Ruler to tell them to leave. One of the group insisted that the agents be beaten up, but the Exalted Ruler told him to shut up since he was not a paid-up member. The Grand Knight took the twelve-ounce bottle from the agent's pocket and, when the agent tried to retrieve it, the group closed in and he was forced to release his grasp. The agents then told the Exalted Ruler that they were going to leave and walked toward the front door, where they were stopped by a man standing guard. The Grand Knight followed the agents and continuously threatened to assault them, but was held back by a special police officer, who prevailed upon the group not to molest the agents and, due to his efforts, the agents departed unharmed.

Defendant has no prior adjudicated record. The minimum penalty usually imposed for violations set forth in Charges 1 and 2 is fifteen and ten days, respectively. Re Local Union #595 UAW-CIO, Bulletin 1281, Item 6; Re Club Harlem, Inc., Bulletin 1327, Item 5. However, considering the facts underlying Charge 2, it is apparent that the officers and members of the defendant club have no regard for the rules and regulations governing liquor licensees. Their threats to do bodily harm to the agents and the taking of evidential material from an agent strikes at the very roots of law enforcement and warrants the imposition of a penalty commensurate with the indignities perpetrated. Had the agents been physically assaulted, revocation of the license would be warranted. However, in view of defendant's prior good record, I shall suspend defendant's license for fifteen days on Charge 1 and twenty-five days on Charge 2, (Re Orange Sportsmen's Club, Inc., Bulletin 1228, Item 2) making a total suspension of forty days. The usual five days will not be remitted because the confessional plea was not entered prior to the date scheduled for the hearing.

Accordingly, it is, on this 20th day of July 1961,

ORDERED that Club License CB-2, issued by the Mayor and Council of the Borough of Freehold to Walter J. Conley Lodge #1379, I.B.P.O.E. of W., for premises 91 Throckmorton Street, Freehold, be and the same is hereby suspended for forty (40) days, commencing at 2:00 a.m., Wednesday, August 2, 1961 and terminating at 2:00 a.m., Monday, September 11, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against)
)
 The Holiday Cocktail Lounge, A Corp.)
 of the State of New Jersey)
 t/a The Holiday Cocktail Lounge)
 U. S. Route No. 9 and Oakland Avenue)
 Woodbridge, New Jersey)
)
 Holder of Plenary Retail Consumption License C-37 (for the 1960-61 and 1961-62 licensing years), issued by the Township Committee of Woodbridge Township.)

CONCLUSIONS

AND

ORDERS

 Patten & Pryga, Esqs., by Walter S. Pryga, Esq., Attorneys for Defendant-licensee.
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charge:

'On Sunday, November 27, 1960, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Lois ---, age 18, and Patricia ---, age 19, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.'

"ABC Agent C testified that at 5:00 p.m. on Sunday, November 27, 1960 he and Agent S entered defendant's licensed premises, at which time there were about 150 persons present and four bartenders were on duty; that he observed two young ladies (hereafter referred to as Patricia and Lois) doing a dance called the 'twist' on a small dance floor about ten feet from where he and his fellow-agent were seated; that after the dance the two young ladies took seats at the bar about 'eight or nine feet' away from them; that on the bar in front of each of the girls, he observed a bottle of Schaefer beer and a glass; and saw the girls pour beer from their respective bottles and consume some of it before going back to the dance floor; that on two occasions when they returned to the bar after dancing each girl consumed a portion of beer; that he observed the bartender (subsequently identified as Anthony Santora) speak to the girls and then go to the cooler and obtain a twelve-ounce bottle of Schaefer beer, open the bottle and place it on the bar in front of Patricia; that Patricia gave what appeared to be a dollar bill to Santora who placed it 'along the cash register, rang up 55¢ and returned an undisclosed amount of change to her'; that Patricia then consumed a portion of the beer before she and Lois went to the dance floor and upon their return each consumed some beer; that he and Agent S then approached the two girls who were 'going to start dancing again' and after identifying themselves questioned the girls with reference to their ages; that Patricia said she was twenty-six years old and when asked for proof, handed him a 1957 driver's license which had been issued to another girl whose given age was twenty-six and Agent S spoke

to Lois who displayed an altered birth certificate; that he seized Patricia's bottle of beer and Agent S seized Lois' bottle of beer and walked near the cigarette machine to further interrogate the two girls before identifying themselves to Santora, bartender Anthony De Augustine and Abe Patnoi (an officer of the defendant corporate licensee); that he, Agent S, Patricia and Lois then went to Police headquarters where it was ascertained upon the arrival of the mother of the girls that both were under 21 years of age.

"By agreement to attorneys for the respective parties stipulated that Agent S's testimony on direct examination would be substantially similar to that given by Agent C. Agent S was cross-examined by the defendant's attorney with little change in the pertinent testimony which had been given by his fellow-agent.

"The testimony of Patricia was that she was 19 years of age on the day in question; that at 5:20 p.m. she arrived at defendant's premises and 'walked in and immediately went around to where the dance floor was because there were some seats at the bar there. Now, as soon as I walked in, two men friends of mine asked me to dance. I hadn't even sat down at all. So I gave my bag to one of the girls and she took it and I was dancing on the dance floor. I danced about I guess maybe it was about three numbers and then my sister was on the dance floor also and the twist came on which is the dance two girls can do or a girl and a boy, whichever way you choose. The twist came on. I said "Lois, let's do the twist." It was just ending. We were going to walk off the dance floor when these two gentlemen came over.' Patricia further testified that Agent C produced a badge and said 'I'm ABC', and then put it away before she had a chance to 'really look at it.'; that when Agent C requested identification she obtained her bag from the floor by her seat, took out her 'identification' which the agents took as well as the 'identification' obtained from her sister and all went to the cigarette machine where both agents 'started firing' questions at her sister who stated that 'as far as she was concerned she was twenty-two years old.' Patricia denied that she had been drinking but stated that the agents insisted upon taking them down to headquarters.

"Lois' testimony was that on November 27, 1960 when she entered defendant's premises she was 19 years of age; that 'we got there about 5:20 and we walked in, checked our coats. We walked down to the end of the bar around to the dance floor and there were about seven girls and my sister and I danced immediately. We didn't even sit down or anything. I gave my bag to one of my friends to put down and we were dancing and these two gentlemen came over to us as we were leaving the dance floor and they asked us for identification and told us they were ABC men. They flashed the card and put it back. I didn't even get a chance to see it so I wasn't sure who they were. I showed them my birth certificate and they brought it over to a cigarette machine and looked at it and said it was altered and they asked me if I was drinking and I said "No, I wasn't".' Lois then testified that when they first arrived at defendant's premises they 'danced with a few fellows and then the twist came on and my sister and I danced together and that's when they came over.' Upon being shown the birth certificate which she had given to the agent Lois admitted that a few days prior thereto she had altered it insofar as the date of birth was concerned in order to make it appear that she was older than what she really was and as a reason therefor said 'I thought I needed it to get in the place.'

"Abe Patnoi, an officer of defendant corporate-licensee

testified that he was at the front entrance at the time when he heard that ABC agents had 'picked up a couple of minors on the dance floor; that he went to the back to find out what the commotion was and advised the girls that they had better go down to the station with the agents; that he was present when Santora denied the sale to the girls.'

Anthony Santora testified that he had not seen Patricia or Lois on the day in question; that he 'never knew there was a violation so I went about my work until a certain time elapsed and I was pulled to the back'; that Agent S told him that he had observed him selling the beer to the minors, which accusation he denied.

"The evidence presented by the Division through its two agents is in direct contradiction to testimony of the girls and the bartender. The agents' testimony was positive that several times they had seen Patricia and Lois consume beer while seated at the bar and on one occasion observed Santora serve Patricia a bottle of Schaefer beer. Both Patricia and Lois denied sitting at the bar contending that they had danced continuously from the time they entered the premises. Santora denied seeing the girls on the day in question prior to the alleged violation. The testimony of the agents and the girls appears in substantial agreement that Patricia and Lois danced the 'twist' and that Patricia presented another person's driver's license with a given age of 26 years and Lois an altered birth certificate showing her to be 22 years of age. There is no question but that the minors came into the premises with false documents to deceive if called upon to prove their respective ages. Lois' contention that she thought she needed to be of age before being permitted in defendant's establishment is unimpressive.

"I am satisfied that the agents testified truthfully as to the events which transpired at the time in question. I reject the testimony of Patricia and Lois that they had not been served with and consumed beer on the date set forth in the charges preferred herein. I am of the opinion Santora served Patricia the bottle of beer as testified by the agents, although because of the large crowd present, he may not have recalled the incident.

"After a careful examination of all the testimony herein, I conclude that defendant's guilt has been established by a fair preponderance of the believable evidence.

"Defendant has no prior adjudicated record. It is recommended, therefore, that defendant be found guilty as charged, and that an order be entered suspending defendant's license for a period of fifteen days, the minimum penalty imposed for an unaggravated sale of alcoholic beverages to an 18- and 19- year-old-minor. Re Point Inn, Inc., Bulletin 1355, Item 5."

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

Having carefully considered the entire record herein, including the transcript of testimony, the Hearer's Report and the written exceptions and argument filed herein, I concur in the Hearer's findings and conclusions and shall adopt his recommendation.

Accordingly, it is, on this 24th day of July, 1961,

ORDERED that Plenary Retail Consumption License C-37, for the 1961-62 licensing year, issued by the Township Committee of Woodbridge Township to Holiday Cocktail Lounge, for premises on U. S. Route No. 9 and Oakland Avenue, Woodbridge, be and the same is hereby suspended for fiteen (15) days, commencing at 2:00 a.m., Monday, July 31, 1961, and terminating at 2:00 a.m., Tuesday, August 15, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

John & Grace Battersby)
t/a Whitey's Tavern (or Whitey's Bar)
33-35 Green Street & Grill))
Paterson 3, N. J.,)

CONCLUSIONS

AND

Holders of Plenary Retail Consumption License C-326 (for the 1960-61 and 1961-62 licensing years), issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

ORDERS

Defendant-licensees, by John Battersby, a Partner
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

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

On Saturday, June 17, 1961, at about 2:05 a.m., two ABC agents, while in defendants' licensed premises, observed John Battersby (co-licensee) accept some money from a patron for the sale of two twelve-ounce cans of Schaefer beer for off-premises consumption. One of the agents followed the patron into the street, identified himself, seized the alcoholic beverages and returned to the premises with the patron. Both agents made their identities known to Mr. Battersby who verbally admitted the violation.

Defendants have no prior adjudicated record. I shall suspend defendants' license for the minimum period of fifteen days. Re Royal Room, Inc., Bulletin 1388, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 3rd day of July 1961,

ORDERED that plenary retail consumption license C-326, for the 1961-62 licensing year, issued by the Board of Alcoholic Beverage Control for the City of Paterson to John & Grace Battersby, t/a Whitey's Bar & Grill, for premises 33-35 Green Street, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3 a.m. Monday, July 10, 1961, and terminating at 3 a.m. Thursday, July 20, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)	
John Grapkowski, Sr. & John Grapkowski, Jr., t/a City Hall Cafe,)	
287 Henderson St.,)	CONCLUSIONS
Jersey City 2, N. J.)	
)	AND
Holder of Plenary Retail Consumption License C-382 (for the 1960-61 and 1961-62 licensing years), issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)	ORDERS
-----)	

Defendant-licensees, by John Grapkowski, Jr., a Partner Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that 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.

On Saturday, June 10, 1961, at about 11:26 p.m., an ABC agent who was in defendants' licensed premises purchased a pint bottle of Fleischmann's Preferred Blend Whiskey from Michael Zemlon (the bartender on duty). The agent, in possession of the alcoholic beverage, left the premises and returned immediately with another agent. Both agents identified themselves to Zemlon who verbally admitted aforesaid violation.

Defendants have no prior adjudicated record. I shall suspend defendants' license for the minimum period of fifteen days. Re Royal Room, Inc., Bulletin 1388, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 17th day of July 1961,

ORDERED that plenary retail consumption license C-382, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to John Grapkowski, Sr., & John Grapkowski, Jr., t/a City Hall Cafe, for premises 287 Henderson St., Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, July 24, 1961, and terminating at 2 a.m. Thursday, August 3, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

JOSEPH MACCIOCCA)
t/a GENOVA CAFE)
304-306 Arch St. and)
305 Federal St. (connected))
Camden 2, New Jersey)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-78 (for the 1960-61 licensing year) and C-82 (for the 1961-62 licensing year), issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

Anthony F. Marino, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging that he sold, served and delivered during prohibited hours an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

On Tuesday, June 13, 1961, two ABC agents visited the vicinity of defendant's licensed premises and, at approximately 7:10 a.m., one of them entered and purchased a glass of wine from Joseph Macciocca, the licensee, who was tending bar. At 7:20 a.m. the agent ordered and received from Macciocca a pint of wine to take out. The agent left the premises with his purchase and was joined by the other agent, to whom he explained what had occurred. Both agents then entered the tavern, identified themselves, and informed the licensee of the violation. Macciocca admitted the unlawful sale, but declined to give a written statement.

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

Accordingly, it is, on this 17th day of July 1961,

ORDERED that Plenary Retail Consumption License C-82 for the 1961-62 licensing year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Joseph Macciocca, t/a Genova Cafe, for premises 304-306 Arch St. and 305 Federal St. (connected), Camden, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, July 24, 1961 and terminating at 2:00 a.m., Thursday, August 3, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS,
LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Perry's Bar & Grill (A Corporation))
t/a Perry's Bar & Grill)
405 Frelinghuysen Avenue)
Newark 12, N. J.,)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption)
License C-702 (for the 1960-61 and)
1961-62 licensing years), issued by)
the Municipal Board of Alcoholic)
Beverage Control of the City of Newark)

ORDER

Nathan Rothenberg, Esq., Attorney for Defendant-licensee
David S. Piltzer, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that
it possessed on its licensed premises alcoholic beverages in
bottles which did not truly describe their contents, in viola-
tion of Rule 27 of State Regulation No. 20.

On May 29, 1961, an ABC agent gauged and tested de-
fendant's open stock of assorted brands of liquor and seized
four bottles, including two quart-bottles of Seagram's Seven
Crown Whiskey, for further analysis by the Division's chemist.

At the time of the seizure Alfredo Medeiros Pereira,
president of the corporate licensee, informed the agent that
for about a month he had been refilling the two bottles labeled
Seagram's Seven Crown with a brand of liquor he was trying to
get rid of, but denied tampering with the contents of the other
two bottles. The report of the Division's chemist shows that
the contents of the two bottles of Seagram's Seven Crown Whiskey
were darker in color than samples of the genuine product.

Defendant has a prior adjudicated record. Effective
April 15, 1957, I suspended its license for five days for mis-
labeled beer taps. Bulletin 1167, Item 5. The minimum penalty
imposed in "refill" cases involving two bottles is a suspension
of the license for fifteen days (Re Bond Street Bar, Inc., Bul-
letin 1246, Item 5), to which will be added five days for the
prior dissimilar violation which occurred within a five-year
period. I shall suspend defendant's license for twenty days
and remit five days for the plea entered herein, leaving a
net suspension of fifteen days.

Accordingly, it is, on this 17th day of July 1961,

ORDERED that plenary retail consumption license
C-702, issued by the Municipal Board of Alcoholic Beverage
Control of the City of Newark to Perry's Bar & Grill, for
premises 405 Frelinghuysen Avenue, Newark, be and the same
is hereby suspended for fifteen (15) days, commencing at
2 a.m. Monday, July 24, 1961, and terminating at 2 a.m.
Tuesday, August 8, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary)
Proceedings against)

Michael J. Kenny and Thomas Butler)
500 Ocean Avenue)
Jersey City 5, New Jersey)

CONCLUSIONS

AND

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

ORDER

Eugene P. Kenny, Esq., Attorney for Defendant-licensees.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they possessed on their licensed premises alcoholic beverages in bottles bearing labels which did not truly describe the contents, in violation of Rule 27 of State Regulation No. 20.

On April 1, 1961, an ABC agent gauged and tested defendants' open stock of assorted brands of liquor and seized a number of bottles of whiskey for further analysis by the Division's chemist. The chemist's report shows the contents of one bottle, labeled "Seagram's Seven Crown American Blended Whiskey, 86 Proof" to be high in solids, low in acids and light in color; the contents of a bottle labeled "Schenley Reserve Blended Whiskey, 86 Proof" to be high in solids, and the contents of a bottle labeled "Fleischmann's Preferred Blended Whiskey, 90 Proof" to be light in color and eight proof short, when compared with samples of the genuine product of the named brands.

In alleged mitigation, defendants contend that it is their belief that a relief bartender, whom they had previously discharged for cause and had reluctantly rehired for one night's work, vented his anger against them by diluting the whiskey in question. I find no merit to defendants' contention. Licensees are held strictly accountable for the acts of their agents in and upon licensed premises. Rule 33 of State Regulation No. 20.

Defendants have a prior adjudicated record. When the license was held by Michael Kenny for the same premises, it was suspended by the local issuing authority for three days, effective May 22, 1939, for allowing the premises to remain open and failing to afford a clear view of them after the closing hour, and effective June 1, 1959, I suspended defendants' license for ten days for selling during prohibited hours, in violation of Rule 1 of State Regulation No. 38. Re Kenny & Butler, Bulletin 1284, Item 3. The penalty imposed by the local issuing authority will not be considered in fixing the penalty herein since that violation occurred more than ten years ago. I shall suspend defendants' license for twenty days, the minimum penalty imposed in "refill" cases involving three bottles (Re DiGiacomo & Grande, Bulletin 1269, Item 7), to which will be added five days for the prior dissimilar violation which occurred within a five-year period (Re Fanok, Bulletin 1307, Item 11), making a total suspension of

twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 26th day of July 1961,

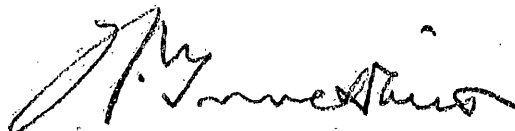
ORDERED that Plenary Retail Consumption License C-523, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Michael J. Kenny and Thomas Butler, for premises 500 Ocean Avenue, Jersey City, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m., Tuesday, August 1, 1961 and terminating at 2:00 a.m., Monday, August 21, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

10. STATE LICENSES - NEW APPLICATION FILED.

Jersey Beverages, Inc.
161 Oliver Street
Newark, New Jersey

Application filed September 18, 1961
for place-to-place transfer of State
Beverage Distributor's License SBD-63
from 148 Fleming Avenue, Newark, New Jersey.



William Howe Davis
Director