

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

BULLETIN 1298

September 23, 1959

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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 1298

September 23, 1959

1. APPELLATE DECISIONS - PALMER FOOD & LIQUORS, INC. v. BOGOTA.

PALMER FOOD & LIQUORS, INC.,)	
Appellant,)	ON APPEAL
v.)	CONCLUSIONS
)	AND ORDER
BOROUGH COUNCIL OF THE BOROUGH)	
OF BOGOTA,)	
Respondent.)	

Walter R. Hespe, Esq., Attorney for Appellant.
Walter H. Jones, Esq., by Irving C. Evers, Esq., Attorney
for Respondent Borough Council.
John F. McCann, Esq., Attorney for the Objectors.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from respondent's action taken on April 23, 1959, whereby it, by a unanimous vote, denied appellant's application for a transfer of its Plenary Retail Distribution License D-6 from 15 Queen Anne Road to 63 West Main Street, Bogota.

"Appellant alleged that the action of the respondent was erroneous for the following reasons:

- '(a) Applicant's case is a hardship case. Its entire property is being taken by the State Highway Authority for the Bergen County expressway and it has no other available place to move to.
- '(b) Applicant has requested the State Highway Authority to retain sufficient of its property to permit it to continue its business without success.
- '(c) It has been unable to rent any other suitable business premises in the Borough of Bogota to continue to conduct its liquor business, despite numerous efforts to do so.
- '(d) There is a lesser concentration of liquor licenses in the new area than in the area in which applicant is presently located.
- '(e) Applicant presented a petition to the issuing authority containing the names of 270 Borough residents favoring the application, whereas those opposing the application presented a petition of only 136 persons.
- '(f) The business places to which applicant can transfer its liquor license are so limited that there is no other available business site presently or in the foreseeable future.

- '(g) There is reasonable justification to grant the application and the refusal by respondent was discriminatory.
- '(h) The transfer sought would not aggravate or create undue concentration of plenary distribution licenses in the proposed new area since there is only one other licensee in a quarter mile radius from 63 W. Main Street, Bogota, N. J.'

"The answer sets forth that the appellant's application for transfer was denied for the following reasons:

- '(1) that it is felt the needs in the area (63 West Main Street, Bogota, New Jersey) are adequately served and as a number of residents registered their objections by petition presented for the Public Hearing;
- '(2) that the public interest would not best be served by the granting of the application; and
- '(3) that applicant failed to present sufficient grounds to warrant the granting of the application.'

"Henry M. Ribordy, president of the appellant corporation, testified that for the past six years appellant has conducted its business at 15 Queen Anne Road, which is located in a business area in the southeasterly corner of the borough; that its property is in the process of being acquired by purchase or condemnation by the State Highway Department for public use; that most of the properties in this area have been razed, leaving the neighborhood almost barren; that by reason of said demolitions, appellant has been forced to discontinue its food market which it has conducted in conjunction with its liquor business; that he has toured the other business areas in the borough to find a suitable vacancy, comparable in size to that which appellant now occupies for its liquor business only; that the only such vacancy available is at 63 West Main Street (on the north side between Larch and Elm Avenues); that the appellant has entered into a two year lease (with an option to renew for two years) for said premises, conditional upon being able to obtain a transfer of its license; that diagonally across the street from the premises which appellant seeks to have licensed is a retail distribution license; that there are six stores on the north side and ten or twelve stores on the south side of West Main Street and that, exclusive of these stores, the entire surrounding area is residential.

"Eugene J. Brophy, on behalf of the respondent, testified that he is a member of the governing body of the borough; that he is chairman of the police committee which investigated appellant's application; that the committee discussed the results of its investigation with the entire board (six councilmen and a mayor); that the Council considered the area in question, the facilities then and there available to serve the residents of the borough, the number of outstanding licenses, the appellant's proposed location and the arguments of counsel at the hearing on the application.

"It appears that appellant contends, among other things, that its application should have been granted because it is being forced to vacate its present location by the State Highway Department. However, even if, as it appears, this is a hardship case, nevertheless, that fact does not require respondent to

transfer the license to another section of the borough which it reasonably concludes is already adequately served. See Houman v. Trenton, Bulletin 1236, Item 2, where this Division, in a hardship case, sustained the denial of an application to transfer a license from one section of the city to another, a distance of about 3300 feet, with no other licensed premises within 500 feet of the proposed new location.

"The weight to be accorded petitions for or against the granting of a retail license, or the transfer thereof, is a matter properly within the discretion of the municipal issuing authority. Bilancio v. Trenton, Bulletin 1221, Item 5, and cases therein cited.

"It will be observed from a tax map introduced in evidence that the shortest distance between the appellant's present location and its proposed new site is about one mile due north (a little over a mile measured streetwise). This case is distinguished from Geltzeiler v. Newark, Bulletin 1171, Item 1, and Black v. Newark, Bulletin 1219, Item 1 (denials of transfers reversed) because in the cited cases the transfers were sought for premises in the same area as the old premises and it was determined that the transfer would not increase the number of licenses in that area.

"It is well established that the transfer of a liquor license is not an inherent or automatic right, and that the issuing authority may grant or deny the transfer in the exercise of a reasonable discretion. After considering all the evidence herein and the briefs filed on behalf of appellant, respondent and the objectors, I conclude that appellant has failed to sustain the burden of establishing that the action of the Council was arbitrary or constituted an abuse of its discretionary power. Rule 6 of State Regulation No. 15. It is recommended, therefore, that an order be entered affirming respondent's action and dismissing the appeal."

Pursuant to Rule 14 of State Regulation No. 15, appellant's attorney filed written exceptions to the Hearer's Report and written argument as to said exceptions. Having carefully considered the evidence herein and the exceptions and written argument, I concur in the conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 12th day of August, 1959,

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

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 70 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MAXIMILLIAN CZERMINSKI)
195 Grand Street)
Jersey City, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-229, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

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

BY THE DIRECTOR:

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

On June 5, 1959, an ABC agent tested the licensee's open stock of 72 bottles of alcoholic beverages and, among others, seized 23 bottles of various brands labeled blended whiskey, and others labeled Scotch whisky, the contents of which appeared to be off in proof and color. The licensee signed an acknowledgment that he refilled all of the bottles of blended whiskey with whiskey of another brand, and refilled all of the bottles of Scotch whisky with Scotch whisky of a differend brand.

Subsequent analysis by the Division chemist disclosed that the contents of the above mentioned bottles varied substantially in acids and solids from samples of the genuine product of the labeled brands.

Defendant has no prior adjudicated record. I shall suspend defendant's license for seventy days. Cf. Re Schwartz, Bulletin 1280, Item 2. Five days will be remitted for the plea entered herein, leaving a net suspension of sixty-five days.

Accordingly, it is, on this 13th day of August, 1959,

ORDERED that Plenary Retail Consumption License C-229, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Maximillian Czerminski, for premises 195 Grand Street, Jersey City, be and the same is hereby suspended for sixty-five (65) days, commencing at 2:00 a.m., Monday, August 24, 1959, and terminating at 2:00 a.m., Wednesday, October 28, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AS NUISANCE -
LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

DINA ANGIOLETTI)
t/a J & D Bar)
14 So. Warren Street)
Trenton, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-81 (for the 1958-59 and)
1959-60 licensing years), issued by)
the Board of Commissioners of the)
City of Trenton.)

William Osterweil, Esq., and William Reich, Esq., Attorneys for
Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On April 3, 8, 9, 15, 17 and 18, 1959 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 unescorted females frequenting your licensed premises to solicit male patrons to purchase numerous drinks of alcoholic beverages for consumption by them and others on April 8, 9 and 18, 1959; allowed, permitted and suffered the sale and service to and the consumption of alcoholic beverages by persons actually or apparently intoxicated in and upon your licensed premises on April 3, 17 and 18, 1959; 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."

During the evening of April 3 when ABC agents were in defendant's licensed premises, they observed a male and a female patron constantly embracing and kissing one another. The agents observed the male's hands in contact with private parts of his female companion and at one time heard her make an indecent remark to another male patron. The female's companion appeared intoxicated and despite the fact that he fell off his stool and was prevented by Peter Chell, the bartender, (hereinafter referred to as Pete) from a repetition thereof, Pete, nevertheless, served him another glass of wine. One of the agents engaged in conversation with Pete concerning the condition of the male patron and Pete remarked that the patron had been drinking at another establishment prior to coming into defendant's premises and during the time the patron spent in defendant's premises he had consumed nearly a quart of wine.

On April 8 the agents returned to defendant's licensed

premises and observed a female referred to as Marge engaged in a "shuffle bowling game" with a soldier and two other male patrons. As one of the games ended, the soldier pushed Marge against the wall with his right hand pressed against her breast. Sometime thereafter, by the use of beer bottles, both Marge and the soldier put on an indecent exhibition and though Cecil Guthrie, the bartender, was present, he did nothing to halt such a performance. On four separate occasions Marge requested male patrons to buy drinks for her.

On the April 9th visit of the agents to defendant's premises, Marge was heard asking male patrons to purchase drinks for her. While one of the agents was selecting a record to play on the juke box, Marge directed a filthy remark towards him. After Marge and an unidentified male left the premises, the agents and Cecil, the bartender, engaged in conversation about Marge and when the agents inquired if she was clean, Cecil said that she had been coming into the premises for several years and nobody ever complained about her. Cecil further remarked that although he is not in "that kind of business" as far as Marge is concerned the agents had nothing to worry about.

On April 15 the agents who had visited defendant's premises on the previous occasions again entered the premises while another agent remained outside thereof. The agents noticed that John Kimmel was the bartender on duty on this occasion. Sometime after the agents had been in the establishment Marge entered and took a seat at the bar opposite to where the agents sat. One of the agents, in the presence of John, asked his fellow agent whether he wanted "to get fixed up" with an elderly female who was seated at the bar and when the agent laughed, John stated: "If you want to get fixed up, get fixed up with Marge. I hear she has a room some place now." One of the agents said that he heard Marge did all right with a sergeant last week, to which John replied: "She made 30 dollars in two days off him, ten bucks a trip." When the agents remarked: "It's better than working", John laughed and walked away.

On the April 17th visit to defendant's premises, the agents heard Pete, who was tending bar, relate an indecent experience he had engaged in with an elderly woman which brought forth laughter from all the patrons. The agents observed the same man who, on April 3, although intoxicated, was served alcoholic beverages. He was also intoxicated on this occasion, but, nevertheless, Cecil served him a bottle of beer. The man purchased a drink for a female and then attempted to kiss her. Cecil admonished the female that she should have taken a seat at the end of the bar and not next to this man because he was drunk.

At 9:05 p.m. on April 18, the agents entered defendant's premises, at which time Pete and Cecil were tending bar. Marge came over to the agents and asked them to buy a drink for her. Cecil served a bottle of beer to Marge and took payment therefor from the agents' money. Shortly thereafter a girl called Jean, whom the agents had seen on a prior visit, took a seat between the agents and requested that they purchase a drink for her. On five occasions thereafter, Jean ordered drinks and Cecil took the agents' money to pay for them. While Jean was drinking at the expense of the agents, she was "fooling around" with a soldier who was on the verge of intoxication and the soldier was attempting to have Jean leave the premises with him to engage in sexual relations. The soldier did a solo dance during which time he jumped, kicked his feet in the air and then manipulated his body in such

a fashion as to emulate a contortionist. He danced with an elderly male on two occasions but Cecil stopped him from dancing with the man. At one time when the soldier in question went to the men's room, a patron made an indecent remark to Jean who laughed and answered him with reference thereto. As the evening progressed the soldier became intoxicated but despite his condition, beer was being served him by the bartenders. The man's eyes were glassy and when he walked towards the men's room he staggered and when he opened the door to the room, he nearly fell. Marge, who had left the premises about 10:00 p.m. with an unidentified male, re-entered at about 11:40 p.m. and one of the agents questioned Pete about engaging Marge in sexual intercourse with especial emphasis on the question as to whether she was clean. Pete assured him she was. At about 11:55 p.m., in the presence of three local police officers, the agents seized the beer from the soldier aforementioned and obtained the pertinent information as to his identity from his ID card, because his condition was such that it was impossible to understand him. Marge gave a written statement to the agents to the effect that although at times she left defendant's premises with men to engage in illicit sexual relations, she never solicited the men for immoral purposes. The bartenders, Pete and Cecil, verbally admitted serving intoxicated persons and having knowledge that Marge and Jean solicited drinks from patrons. Cecil denied having seen the indecent exhibition displayed by Marge and a soldier with a beer bottle, alleged to have occurred on April 8th.

Defendant, in attempted mitigation of penalty, states that she was not in the licensed premises on the dates in question when the violations took place. However, even in the absence of actual knowledge, a licensee cannot escape the consequences of the occurrences of incidents, such as hereinbefore related. Re Paton, Bulletin 898, Item 3.

Defendant has no prior adjudicated record. Under all the circumstances, I shall suspend defendant's license for sixty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifty-five days.

Accordingly, it is, on this 3rd day of August 1959,

ORDERED that Plenary Retail Consumption License C-81, for the 1959-60 licensing year, issued by the Board of Commissioners of the City of Trenton to Dina Angioletti, t/a J & D Bar, for premises 14 So. Warren Street, Trenton, be and the same is hereby suspended for fifty-five (55) days, commencing at 2:00 a.m., Tuesday, August 11, 1959 and terminating at 2:00 a.m., Monday, October 5, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ANTHONY S. PIECHOTA t/a KLEM'S TAVERN 190 York Street Jersey City, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-218 (for the 1958-59 and 1959-60 licensing years), issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Matthew F. Czachorowski, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On June 4, 1959, you possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises, alcoholic beverages in bottles which bore labels which did not truly describe their contents, viz.,

Two quart bottles labeled 'Calvert Reserve American Blended Whiskey 86 Proof',

Three quart bottles labeled 'Seagram's Seven Crown American Blended Whiskey 86 Proof',

One quart bottle labeled 'Four Roses Blended Whiskey 86 Proof',

Two quart bottles labeled 'Schenley Reserve Blended Whiskey 86 Proof',

One 4/5 quart bottle labeled 'Hunter "First Over the Bars" Blended Whiskey 86.8 Proof',

One 4/5 quart bottle labeled 'Kinsey Gold Blended Whiskey 86.8 Proof', and

One 4/5 quart bottle labeled 'Lord Calvert Blended Whiskey 86 Proof';

in violation of Rule 27 of State Regulation No. 20."

On June 4, 1959, an ABC agent tested the defendant's open bottles of alcoholic beverages (45 bottles) and seized the eleven bottles of assorted brands of whiskey when the contents thereof appeared to be off in proof and color. Defendant admitted that he refilled the seized bottles with a brand of whiskey different from that shown on the respective labels.

Defendant has no prior adjudicated record. I shall suspend his license for a period of forty days. Cf. Re Dempsey, Bulletin 1294, Item 3. Five days will be remitted for the plea entered

herein; leaving a net suspension of thirty-five days.

Accordingly, it is, on this 6th day of August, 1959,

ORDERED that Plenary Retail Consumption License C-218 (for the 1959-60 licensing year), issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Anthony S. Piechota, for premises 190 York Street, Jersey City, be and the same is hereby suspended for thirty-five (35) days, commencing at 2 a.m. Monday, August 17, 1959, and terminating at 2 a.m. Monday, September 21, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - CONDUCTING BUSINESS DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

PETER J. D. MURPHY)
t/a Murphy's Tavern)
102 Bright Street)
Jersey City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-151, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Peter J. D. Murphy, Defendant-licensee, Pro se.
Dora P. Rothschild, Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to charges alleging that (1) he sold, served and delivered during prohibited hours alcoholic beverages in their original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38, and (2) he conducted his licensed business during prohibited hours, in violation of a local ordinance.

On Sunday, July 19, 1959 at about noon, an ABC agent joined three other men whose acquaintances he had made in front of defendant's licensed premises. One of these men, Raymond Oglesby, was occasionally employed as a porter by the licensee and volunteered to obtain whatever alcoholic beverages the other men desired. At the time the licensee was seen to enter the licensed premises. Two of the men gave Oglesby a sum of money with requests that he purchase a pint of whiskey for each. Oglesby knocked on the door, was admitted by the licensee, and emerged shortly with the two pints of whiskey and handed each man one of the bottles of whiskey. Oglesby then turned to the agent and asked what the agent wanted. The agent then handed a sum of money to Oglesby and told him he wanted a pint of Seagram's whiskey. Oglesby again knocked on the door, was admitted by the licensee and then emerged with the requested bottle of whiskey which he handed the agent. The agent signaled to a fellow agent, identified themselves and with Oglesby entered the licensed premises. The licensee verbally admitted to the agents that he had made the sales of whiskey above described.

Defendant has a prior adjudicated record. Effective September 23, 1951 his license was suspended for five days by the local issuing authority for a violation similar to that set forth in Charge 1 herein. Effective October 8, 1956 his license was suspended for thirty-five days for a similar violation and also for sales to a minor. Re Murphy, Bulletin 1138, Item 2. Hence, this is the second similar violation within the past five years and the third similar violation within the past ten years. The minimum penalty of fifteen days imposed for violation of Rule 1 of State Regulation No. 38 will, therefore, be doubled (Re Rowland, Bulletin 1278, Item 2), to which will be added five days for the violation set forth in Charge 2 (Cf. Re Melvin, Bulletin 1258, Item 5), and an additional five days will be imposed by reason of the suspension in 1951, making a total suspension of forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 13th day of August 1959,

ORDERED that Plenary Retail Consumption License C-151 issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Peter J. D. Murphy, t/a Murphy's Tavern, for premises 102 Bright Street, Jersey City, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m., Wednesday, August 19, 1959 and terminating at 2:00 a.m., Wednesday, September 23, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

3. SALE ON CREDIT AT RETAIL - HEREIN OF SALE TO DINER'S CLUB AND OTHER CREDIT CARD HOLDERS.

September 15, 1959

Samuel Moskowitz, Esq.
Union City, N. J.

This acknowledges your letter of September 11th concerning sale of alcoholic beverages on credit to holders of Diner's Club Credit cards.

There is no provision of the alcoholic beverage law or state regulations prohibiting the sale of alcoholic beverages on credit statewide, the short-lived (four months) state regulation prohibiting such sale having been abrogated in 1936 for the reasons stated in Bulletin 151, Item 7. However, some municipalities still prohibit such sales by local regulation--sometimes prohibiting all sales, sometimes only sales for on-premises consumption, and sometimes with various exceptions in favor of clubs, hotels, etc.

Accordingly, in municipalities where sale of alcoholic beverages on credit is not prohibited, retail licensees may sell alcoholic beverages either for on-premises or off-premises consumption on credit whether the billing for such sales is handled by the retailer himself or through an instrumentality such as the Diner's Club.

The fact that the retailer must reimburse the instrumentality for its billing and collection costs at a percentage rate of gross credit sales does not constitute prohibited profit-sharing nor create any prohibited interest of the instrumentality in the licensed business, since it merely relieves the retailer of the cost of his own billing and collection service if he engages in credit selling.

However, as with any other credit selling, all licensees are cautioned that in the event they engage in the practice of selling on credit, it may not be advertised in any way except by dignified sign on the interior of the licensed premises not visible from the exterior or by menu or table tent or card in restaurants.

Very truly yours,

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

PATRICK HOLIAN)
t/a HOLIAN'S CAFE)
390 Summit Avenue)
Jersey City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-173, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Patrick Holian, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On June 7, 11, 18, 20 and 27, 1959, you allowed, permitted and suffered gambling, viz., the making and accepting of bets in a lottery commonly known as the 'numbers game', in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.
- "2. On June 7, 11, 18, 20 and 27, 1959, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game' to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

ABC agents visited defendant's premises on the dates alleged and on each occasion observed patrons placing "numbers" bets with "bookies" or collectors at the bar. The agents on two occasions saw the licensee place "numbers" bets with one of the "bookies" and give him slips of paper and money. On their third visit one of the agents placed a "numbers" bet with a male called "Jimmy" and was assured by the licensee that "this fellow is as good as gold." On their fourth visit the agents inquired for "Jimmy" and the licensee replied, "I don't think he is working today, but Frank here will take your number." Both agents then placed bets with Frank (later identified as Francis Reilly). On their last visit each agent placed a "numbers" bet with Frank, paying him with marked money. Frank recorded their bets and then wrote the numbers on a slip of paper which he pushed toward the licensee saying, "I'm writing these numbers on here so that Pat (the licensee) will have a record of them if they hit." As prearranged,

two other ABC agents and local detectives entered the licensed premises and identified themselves and the two agents who had placed bets. Frank was searched and upon his person were found "numbers" slips and the marked money and slips given to him by the agents. The licensee verbally stated that he knew that the agents were placing "numbers" bets with Frank but that he did not profit in any way. Frank gave a signed, sworn statement in which he admits that the agents placed "numbers" bets with him and he identified "numbers" slips given to him by the licensee.

Defendant has a prior adjudicated record. Effective December 9, 1935, his license was suspended for two days for an Election Day violation; effective October 7, 1940, his license was suspended for two days for an "hours" violation, and effective June 9, 1947, his license was suspended for ten days for an "hours" violation. The aforesaid suspensions were imposed by the local issuing authority but will not be considered in fixing the penalty herein since the violations occurred more than ten years ago. I shall suspend defendant's license for twenty-five days (the minimum period of suspension imposed for the violations charged herein). Re Sopoligo, Bulletin 1248, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 4th day of August, 1959,

ORDERED that Plenary Retail Consumption License C-173, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Patrick Holian, t/a Holian's Cafe, for premises 390 Summit Avenue, Jersey City, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, August 11, 1959, and terminating at 2 a.m. Monday, August 31, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JEANNE PODURGEL, ADMIN'X. of the)
EST. OF WACLAW LIPKA, dec'd.)
384 Grove Street)
Jersey City 2, N.J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-272 (for the 1958-59 and)
1959-60 licensing years), issued by)
the Municipal Board of Alcoholic)
Beverage Control of the City of)
Jersey City.)

Defendant-licensee, Pro se.
Davis S. Piltzer, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on Sunday, April 12, 1959 she sold and permitted the sale of alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

On Sunday, April 12, 1959 at about 1:30 p.m., an ABC agent while on defendant's licensed premises observed the bartender accept \$4.95 from a patron for the sale of a quantity of alcoholic beverages for off-premises consumption. The agent followed the patron into the street, learned he had purchased eight cans of Schaefer beer and one 4/5 pint of Pedro Domecq Fundador Brandy and immediately returned with him and two other agents to the licensed premises. The agents identified themselves to the bartender who orally admitted the violation.

By way of mitigation, the defendant submitted a statement setting forth therein that the bartender acted contrary to instructions. The licensee, however, cannot escape the consequences of the aforementioned act of her agent. (Rule 33 of State Regulation No. 20; Cf. Re Trosky, Bulletin 1269, Item 3).

Defendant has a prior adjudicated record. When the license was held by Waclaw Lipka, it was suspended effective December 7, 1942 by the local issuing authority for five days for a local "hours" violation, and effective April 4, 1949 by this Division for ten days for possession of alcoholic beverages not truly labeled. Re Lipka, Bulletin 838, Item 9. Effective June 5, 1956 defendant's license was suspended by this Division for twenty days for possession of alcoholic beverages not truly labeled. Re Jeanne Podurgal, Admin'x. of the Est. of Waclaw Lipka, Bulletin 1121, Item 4. Since two of the aforesaid prior violations occurred more than ten years ago and prior to the time defendant operated the business, as an administratrix, I shall not consider them in fixing the penalty herein. Cf. Re Mazza, Jr., Bulletin 1190, Item 6. The minimum suspension for an "hours" violation is fifteen days. Re Forster, Bulletin 1269, Item 9. In view of the prior dissimilar violation which occurred within the past five years, I shall suspend the defendant's license for twenty days. Re Forster, supra. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 4th day of August 1959,

ORDERED that Plenary Retail Consumption License C-272 for the 1959-60 licensing year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Jeanne Podurgal Admin'x. of the Est. of Waclaw Lipka, dec'd., for premises 384 Grove Street, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m., Monday, August 17, 1959 and terminating at 2:00 a.m., Tuesday, September 1, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

JESSIE S. JACKSON
t/a NORM & JESSIE'S TAVERN
n/s Swartswood Road
Fredon Township
PO RFD #3, Newton, N. J.

)
)
) CONCLUSIONS
) AND ORDER
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)

Holder of Plenary Retail Consumption License C-3 (for the 1958-59 and 1959-60 licensing periods), issued by the Township Committee of the Township of Fredon.

Jessie S. Jackson, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging that she sold, served and delivered alcoholic beverages to four minors, and permitted the consumption of such beverages by said minors in and upon her licensed premises, in violation of Rule 1 of State Regulation No. 20.

On Friday, May 22, 1959 at about 10:45 p.m., two ABC agents who were in defendant's licensed premises observed five youths consuming beer at the bar. At about 10:55 p.m., when they observed another service of beer to these youths at the bar, the agents identified themselves to the group and to the barmaid who had served the drinks, and ascertained that four of the group were minors, to wit: George ---, age 19; Alfred ---, age 20; John ---, age 20, and Everett ---, age 20. The agents further ascertained that none of the minors had been questioned as to his age or asked to sign a written representation thereof. The barmaid admitted the sales of beer to the minors, but claimed that on a prior occasion she questioned three of them and that they then produced cards of some nature which purported to disclose that they were of age. Each of the four minors denied that he had been questioned by anyone as to his age on previous visits to the licensee's establishment.

Defendant has no prior adjudicated record. The minimum penalty for sale to a 19-year-old minor is fifteen days (Re Hoffman, Bulletin 1275, Item 3). I shall suspend defendant's license for fifteen days and remit five days for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 12th day of August, 1959,

ORDERED that Plenary Retail Consumption License C-3, for the 1959-60 licensing year, issued by the Township Committee of the Township of Fredon to Jessie S. Jackson, t/a Norm & Jessie's Tavern, for premises on n/s Swartswood Road, Fredon Township, be and the same is hereby suspended for ten (10) days, commencing at 7:00 a.m., Monday, August 24, 1959, and terminating at 7:00 a.m., Thursday, September 3, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALE TO MINOR NOLLE PROSSED.

In the Matter of Disciplinary Proceedings against
 LINDENWOLD OPEN HOUSE
 t/a LINDENWOLD INN
 White Horse Pike & Myrtle Avenue
 Lindenwold
 PO RFD Laurel Springs, N. J.
 Holder of Plenary Retail Consumption License C-10 (for the 1958-59 licensing year), issued by the Borough Council of the Borough of Lindenwold.

CONCLUSIONS AND ORDER

 Robert W. Wolfe, Esq., Attorney for Defendant-licensee.
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendant pleaded not guilty to a charge alleging that it sold, served and delivered alcoholic beverages to a minor, Raymond ---(age 19) and permitted the consumption of such beverages by said minor in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20.

It appearing at the hearing held on August 4, 1959 that the Division's representative moved to nolle pros the aforesaid charge because of the unavailability of the minor who is stationed in Germany with the United States Armed Forces and because of the indefiniteness of his return to this jurisdiction and

It further appearing that the Hearer has recommended the approval of the motion to nolle pros,

Accordingly, it is, on this 18th day of August 1959,

ORDERED that the charge be and the same is hereby nolle prossed.

WILLIAM HOWE DAVIS
DIRECTOR

12. STATE LICENSES - NEW APPLICATION FILED.

Leonard Kreusch Inc.
 7814-20 Tonnelle Avenue
 North Bergen, N. J.
 Application filed September 15, 1959 for place-to-place transfer of Wine Wholesale License WW-28 to include additional space.

William Howe Davis
 William Howe Davis
 Director