

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 1102

MARCH 12, 1956.

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STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 1102

MARCH 12, 1956.

1. COURT DECISIONS - OLIVERI'S v. DIVISION OF ALCOHOLIC  
BEVERAGE CONTROL - ORDER OF DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
No. A-48-55, September Term, 1955

OLIVERI'S, a New Jersey )  
corporation, )  
 )  
Appellant, )  
 )  
-vs- )  
 )  
DIVISION OF ALCOHOLIC BEVERAGE )  
CONTROL OF THE DEPARTMENT OF )  
LAW AND PUBLIC SAFETY OF THE )  
STATE OF NEW JERSEY, )  
 )  
Respondent. )  
-----

Argued February 20, 1956. Decided March 1, 1956.

Before Judges Clapp, Jayne, and Francis.

Mr. Henry H. Rubenson argued the cause for appellant  
(Mr. Leo J. Berg, attorney).

Mr. Samuel B. Helfand, Deputy Attorney General,  
argued the cause for respondent (Mr. Grover C.  
Richman, Jr., Attorney General of New Jersey).

The opinion of the court was delivered by

JAYNE, J.A.D.

The appellant corporation is the holder of a plenary retail consumption license for premises situate on Route No. 46 in the Borough of Lodi. Having previously pleaded guilty to charges of selling alcoholic beverages during prohibited hours in contravention of the provisions of a local ordinance, its license was suspended by the Director of the Division of Alcoholic Beverage Control effective May 13, 1954 for a period of 15 days.

That event is merely historical, for again on August 9, 1955 it was accused of selling alcoholic beverages on or about July 1, 1955 to one Mary ---, a minor of 16 years of age, and of allowing, permitting, and suffering her to consume the beverages on the licensed premises in violation of Rule 1 of State Regulations No. 20.

The occurrence of this last mentioned infraction the appellant denied; a hearing was conducted at which oral testimony was introduced subject to the interrogations of counsel, and the Director resolved that the charge had been adequately sustained by credible proof. On September 29, 1955 the Director ordered that the appellant's license be suspended for a span of 25 days commencing October 10, 1955. We are requested by the present appeal to review the propriety of the Director's order of suspension.

The essentiality of the appellant's criticism of the order is that the Director ascribed too much credence to Mary's testimony. She related that at about 1:00 A.M. on the morning of July 2, 1955 she visited in company with two young men the appellant's tavern and occupied with her companions a stool at the bar, where during the course of an hour's time the bartender served her seven "straight shots" or "slugs" of rye whiskey, each of which she there consumed with the aid of a "chaser" of water.

No one at the hearing insinuated that Mary became intoxicated, not even Mary herself. She did not in her testimony evince the pretension that the imbibition of whiskey at the rate of only seven drinks an hour was any heroic accomplishment.

The evidence abundantly established the presence of Mary and of her two companions together in the tavern at an early hour on July 2, 1955, and that the bar was then open and alcoholic drinks were being served to customers. The testimony of the two male companions in several particulars is corroborative of Mary's, although it was obvious at the hearing that their memories of the event had become exceedingly cloudy since the day on which they gave their statements to the police. They recalled that drinks were regularly ordered for Mary, but whether they were of an alcoholic quality and whether Mary drank them were possible incidents that had faded from their retrospections.

Illustrative is the following excerpt from Larry's cross-examination:

"Q. So that as a matter of fact, you don't know whether the drinks you handed Mary that night were lemonade or orange juice or straight gingerale or soda or anything else? You simply did not know what drinks she was getting, is that correct? A. Correct."

The foregoing quotation from his testimony followed this one:

"Q. Did the three of you have anything to drink?  
A. As far as I know, we weren't drinking.

Q. What did each of you have? A. I know I had about four or five whiskies.

Q. What did Mr. ----- have? A. He had whiskey too.

Q. What did Mary ---- have? A. She was drinking too. I guess it was whiskey, in a tall glass.

Q. Did you see her drinking? A. Well, I gave her the drink.

Q. How many drinks did you give her? A. I can't be exact, but it wasn't more than four."

Bobby, who paid for the drinks, testified:

"Q. Did you have anything to drink in Oliveri's?  
A. Yes.

Q. Did Mary ---- have anything to drink in Oliveri's?  
A. I didn't see her drink, so I don't know."

We agree with the appellant's assertion that the testimony of Mary's escorts was conspicuously fickle. The bartender's testimony was likewise unproductive of relevant information since he had no recollection whatever of the presence on that occasion of Bobby, Larry, and Mary at the tavern.

The Director was therefore obliged to determine the essential facts from Mary's testimony together with the correspondence in some details discoverable in the testimony of the other witnesses.

While we have noticed that at her initial interrogation by the police Mary expressed her inability, or in view of her subsequent explanation, her disinclination at that time to identify the bartender who served the drinks to her, yet we conclude that her testimony constituted competent and substantial evidence in support of the Director's factual findings.

Where the evidence is in that state, we are not disposed in the exercise of our appellate authority to overthrow the factual findings of the Director by a de novo determination. Traymore of Atlantic City, Inc. v. Hock, 9 N. J. Super. 47 (App. Div. 1950); In re Larsen, 17 N. J. Super. 564 (App. Div. 1952); In re Gutman, 21 N. J. Super. 579 (App. Div. 1952); Mazza v. Cavicchia, 28 N. J. Super. 280, 289 (App. Div. 1953), reversed on other grounds, 15 N. J. 498 (1954); Benedetti v. Bd. of Com'rs of Trenton, 35 N. J. Super. 30, 34 (App. Div. 1955).

Affirmed.

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2. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - SALE DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
MICHAEL DeLUCCIA  
t/a CLUB 25  
13 North Main Street  
Paterson 1, N. J.,  
Holder of Plenary Retail Consumption License C-162, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

CONCLUSIONS AND ORDER

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Michael DeLuccia, Defendant-licensee, Pro se.  
Dora P. Rothschild, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that (1) he sold an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulations No. 38; (2) he sold an alcoholic beverage during prohibited hours, in violation of a local ordinance; and (3) he failed to keep the interior of his licensed premises open to public view during hours when sales are prohibited, in violation of a local ordinance.

An ordinance of the City of Paterson prohibits the sale of alcoholic beverages and requires that the entire interior of the licensed premises shall be kept open to public view from the outside thereof between 3:00 a.m. and 1:00 p.m. on Sunday.

The file herein discloses that on Sunday, January 22, 1956, at about 10:15 a.m., an ABC agent knocked on the door of defendant's licensed premises and received no answer. The agent was unable to obtain a view of the interior of the premises because the venetian blinds were closed. At about 11:45 a.m., the agent followed a man through an alleyway and observed the man as he tapped on a rear window of the licensed premises. After a woman opened the window and apparently sold two cans of beer to the man, she asked the agent what he wanted. As a result of their conversation, she sold to the agent a pint bottle of whiskey, making delivery thereof through the open window. The agent and another ABC agent later entered the premises through the front door which was opened by the licensee and identified themselves to him and to Rose DeLuccia, his wife, who had made the sale.

Defendant has no prior adjudicated record. Under the circumstances of this case, I shall suspend defendant's license for thirty days. Cf. Re Charnick and Krumholz, Bulletin 1094, Item 2. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 9th day of February, 1956,

ORDERED that Plenary Retail Consumption License C-162, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Michael DeLuccia, t/a Club 25, 13 North Main Street, Paterson, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 3:00 a.m. February 20, 1956, and terminating at 3:00 a.m. March 16, 1956.

WILLIAM HOWE DAVIS  
Director.

3. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

JOSEPH FRANCIS CAHILL, JR. )  
43 Montrose Avenue )  
Jersey City 7, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-419, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

-----  
Joseph Francis Cahill, Jr., Defendant-licensee, Pro se.  
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

The file herein discloses that at about 5:30 p.m., Sunday, January 15, 1956, an ABC agent observed the licensee sell six cans of chilled beer in a paper bag to a customer, who carried the beer to an automobile parked nearby. The agent, and

another agent who had remained outside, went to the automobile, identified themselves to the purchaser, seized the beer for evidence and confronted the licensee with the purchaser and beer. The licensee acknowledged that he sold the beer to the customer at the time and place aforesaid.

The defendant has no prior adjudicated record. I shall suspend his license for a period of fifteen days (Re DiGioia, Bulletin 1092, Item 6) and remit five days for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 6th day of February, 1956,

ORDERED that Plenary Retail Consumption License C-419, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Joseph Francis Cahill, Jr., 43 Montrose Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. February 14, 1956, and terminating at 2:00 a.m. February 24, 1956.

WILLIAM HOWE DAVIS  
Director.

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

In the Matter of Disciplinary Proceedings against )

FERDINAND CAUWELS, JR. )  
a/k/a FRED CAUWELS, JR. )  
T/a OLD MILL STREAM )  
205 Paramus Road )  
Paramus, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-25, issued by the Mayor and Council of the Borough of Paramus. )  
----- )

Koribanics & Koribanics, Esqs., by Steven Koribanics, Esq.,  
Attorneys for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on Friday, October 21, 1955, he sold, served and delivered alcoholic beverages to minors and allowed, permitted and suffered the consumption thereof by said minors in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that on Friday evening, October 21, 1955, Lynn ---, 17 years old; Barbara ---, 18 years old; Peggy --- and Elsa ---, both 20 years old, visited defendant's licensed premises. While in said premises, each was served and consumed one or more mixed drinks containing whiskey -- one of the minors admitting that she had three whiskey highballs at the time in question.

On January 16, 1956, I announced that the penalty in a case such as that now under consideration would be increased over that heretofore imposed. However, since the violation herein was committed previous to the time of said announcement, the penalty will not be affected thereby.

Defendant has no prior adjudicated record. Because of the number of minors involved and the fact that the youngest thereof was only 17 years of age, I shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days. Re Kaczorowski, Bulletin 913, Item 14.

Accordingly, it is, on this 7th day of February, 1956,

ORDERED that Plenary Retail Consumption License C-25, issued by the Mayor and Council of the Borough of Paramus to Ferdinand Cauwels, Jr., a/k/a Fred Cauwels, Jr., t/a Old Mill Stream, 205 Paramus Road, Paramus, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. February 14, 1956, and terminating at 3:00 a.m. February 29, 1956.

WILLIAM HOWE DAVIS  
Director.

5. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - ALCOHOL ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO INNOCENT LIENOR.

In the Matter of the Seizure on	)	Case No. 8926
July 6, 1955, of 72 two-quart	)	
"Mason" jars of alcoholic beverages and a Mercury sedan on Route	)	
130, about 200 feet south of	)	ON HEARING
Farnsworth Avenue, in the Township	)	CONCLUSIONS AND ORDER
of Bordentown, County of Burlington	)	
and State of New Jersey.	)	
-----)		

James Darby, Jr., Pro se.

Flatbush Auto Discount Corporation, by Sidney Newman, Vice-President.

I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether 72 two-quart "Mason" jars of alcoholic beverages and a Mercury sedan, described in a schedule attached hereto, seized on July 6, 1955 on Route No. 130 in the vicinity of Farnsworth Avenue, Bordentown, New Jersey, constitute unlawful property and should be forfeited.

A New Jersey State trooper halted the Mercury sedan on the above date and location while on routine traffic patrol on the highway. He ascertained that the motor vehicle was operated by Julius Marion and bore license plates issued to James Darby, Jr. When the trooper discovered the aforementioned jars of alcohol in the trunk of the car, without any stamps indicating the payment of tax on alcoholic beverages, he took the occupants of the car into custody, and seized the motor vehicle and alcohol, which were later turned over to ABC agents.

The contents of one of the jars was analyzed by the Division chemist, who reports that it is alcohol and water, fit for beverage purposes, with an alcoholic content by volume of 47.4 percent.

Julius Marion, and James Darby, Sr., a passenger in the car, claimed to have secured the alcohol from a stranger whom they met on a highway, and were to transport such alcohol to Brooklyn, for which they received \$10.00 and were promised one-half of the alcohol on delivery. Both Marion and Darby have previously been convicted of violating various Federal and State liquor laws.

When the matter came on for hearing, pursuant to R. S. 33:1-66, James Darby, Jr. appeared and sought return of the motor vehicle. Flatbush Auto Discount Corporation entered an appearance at a supplemental hearing and sought recognition of its alleged lien on the motor vehicle. Neither claimant disputed the accuracy of the above recited facts. No one opposed forfeiture of the alcohol.

The alcohol is illicit because of the absence of a tax stamp on any of the jars. R. S. 33:1-1(i), R.S. 33:1-88. It is obviously bootleg alcohol. Such illicit alcohol and the motor vehicle in which it was transported and found are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

The Flatbush Auto Discount Corporation financed the purchase of the motor vehicle. The application for such financing was first presented on behalf of James Darby, Jr. Since James Darby, Jr. was only 24 years of age, and likely to be drafted, the finance company advised the automobile dealer that it would not finance the transaction unless there were satisfactory co-signers. Thereupon James Darby, Sr. and Arthur Houghton offered to join in the transaction.

The finance company was furnished with the information concerning the background, employment, and residence of these three men, and eventually accepted a chattel mortgage on May 7, 1955 covering the motor vehicle in question, signed by these three men, given to secure the payment of \$782.88. The present balance due thereon, after rebate for prepayment, is at least the sum of \$550.00.

Before extending credit to the three applicants the finance company checked the information furnished them and verified that James Darby, Jr. was employed by an industrial concern and resided at the address given. It also checked with two independent credit agencies who reported that they had no derogatory information concerning James Darby, Jr. Similarly the finance company checked the information furnished by James Darby, Sr. and ascertained that he was employed as a landscaper in Valley Stream, New York; and that he resided at the address given. Further, the above mentioned credit agencies reported that they had no derogatory information concerning James Darby, Sr. The finance company checked the information furnished by Arthur Houghton and ascertained that he was employed by a local steel company, resided at the address given and was clear on the records of the aforementioned investigating agencies. The vice-president of the finance company testified that on the basis of his checks it was regarded as a usual transaction without any of the factors which, in the course of its practice, would suggest any further inquiry with the police or other law enforcement authorities.

I am satisfied from the evidence presented that the finance company made a reasonable credit inquiry concerning the background, employment and character of the three persons involved. Such investigation failed to reveal any fact or suspicious circumstance tending to indicate that the purchasers

were of ill-repute and hence it was not negligent in failing to include inquiry of law enforcement authorities concerning any record that James Darby, Sr. might have had before acquiring its lien on the motor vehicle. Seizure Case No. 8682, Bulletin 1045, Item 8.

I am satisfied that the Flatbush Auto Discount Corporation acted in good faith, and did not know or have any reason to suspect that illicit alcoholic beverages would be transported in the motor vehicle. I shall recognize its lien to the extent of \$550.00. R. S. 33:1-66(f).

It appears that the appraised value of the motor vehicle does not exceed the amount of the lien claim and the costs of its seizure and storage. The Mercury sedan will be returned to the Flatbush Auto Discount Corporation upon the payment of its seizure and storage.

James Darby, Jr. filed a written stipulation subsequent to the hearing stating that his claim should be considered withdrawn if the motor vehicle is returned to the finance company. Hence it is not necessary to definitively determine the merits of his claim in these forfeiture proceedings although his testimony might justify the inference that his father and not he is the actual owner of the motor vehicle.

Accordingly, it is DETERMINED and ORDERED that if on or before the 16th day of February, 1956, the Flatbush Auto Discount Corporation pays the costs incurred in the seizure and storage of the Mercury sedan, described in Schedule "A", such motor vehicle will be returned to it; and it is further

DETERMINED and ORDERED that the 72 two-quart "Mason" jars of alcoholic beverages listed in the aforesaid Schedule "A" constitute unlawful property and the same be and hereby are forfeited in accordance with the provisions of R. S. 33:1-66 and that they be retained for the use of hospitals and State, county and municipal institutions or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS  
Director.

Dated: February 8, 1956.

SCHEDULE "A"

- 72 - two-quart "Mason" jars of alcoholic beverages
- 1 - Mercury sedan, Serial and Engine No. 51ME102916, New York Registration 8L69-66.

6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

MARY CANNON )  
T/a CANNON'S TAVERN )  
372 West Mt. Pleasant Avenue )  
Livingston, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Livingston. )  
-----)

Mary Cannon, Defendant-licensee, Pro se.  
Dora P. Rothschild, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant has pleaded non vult to a charge alleging the sale of alcoholic beverages to a minor, contrary to Rule 1 of State Regulations No. 20.

On December 3, 1955, the defendant's bartender sold 12 cans of beer for off-premises consumption to Gordon ---, aged 17 years.

The defendant has no prior adjudicated record. Since this violation occurred before my announcement of increased penalties (see Bulletin 1095, Item 1), the license will be suspended for a period of 15 days, with 5 days remitted for the plea, leaving a net penalty of 10 days. Re Chessman, Bulletin 1082, Item 10.

Accordingly, it is, on this 14th day of February, 1956,

ORDERED that Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Livingston to Mary Cannon, t/a Cannon's Tavern, 372 West Mt. Pleasant Avenue, Livingston, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. February 20, 1956, and terminating at 2:00 a.m. March 1, 1956.

WILLIAM HOWE DAVIS  
Director.

ACTIVITY REPORT FOR FEBRUARY 1956

<b>ARRESTS:</b>		
Total number of persons arrested	-----	27
Licenses and employees	----- 8	
Bootleggers	----- 19	
<b>SEIZURES:</b>		
Motor vehicles - cars	-----	4
- trucks	-----	1
Still - over 50 gallons	-----	1
Mash - gallons	-----	10,000.00
Distilled alcoholic beverages - gallons	-----	43.82
Wine - gallons	-----	2.84
Brewed malt alcoholic beverages - gallons	-----	.79
<b>RETAIL LICENSEES:</b>		
Premises inspected	-----	896
Premises where alcoholic beverages were gauged	-----	823
Bottles gauged	-----	15,856
Premises where violations were found	-----	64
Violations found	-----	103
Type of violations found:		
Unqualified employees	----- 50	Prohibited signs ----- 2
Regs. #38 sign not posted	----- 8	Disposal permit necessary ----- 1
Other mercantile business	----- 3	Other violations ----- 39
<b>STATE LICENSEES:</b>		
Premises inspected	-----	35
License applications investigated	-----	8
<b>COMPLAINTS:</b>		
Complaints assigned for investigation	-----	421
Investigations completed	-----	381
Investigations pending	-----	174
<b>LABORATORY:</b>		
Analyses made	-----	214
Refills from licensed premises - bottles	-----	5
Bottles from unlicensed premises	-----	25
<b>IDENTIFICATION BUREAU:</b>		
Criminal fingerprint identifications made	-----	18
Persons fingerprinted for non-criminal purposes	-----	185
Identification contacts made with other enforcement agencies	-----	168
Motor vehicle identifications via N. J. State Police teletype	-----	6
<b>DISCIPLINARY PROCEEDINGS:</b>		
Cases transmitted to municipalities	-----	7
Violations involved:		
Sale during prohibited hours	----- 5	
Sale to minors	----- 1	
Sale to non-members by club	----- 1	
Failure to close premises during prohibited hours	----- 1	
Cases instituted at Division	-----	21
Violations involved:		
Sale to minors	----- 8	Fraud and front ----- 1
Permitting bookmaking on premises	----- 4	Failure to close premises during prohibited hours ----- 1
Sale during prohibited hours	----- 3	Failure to afford view into premises during prohibited hours ----- 1
Sale below minimum resale price	----- 2	Permitting gambling (cards, dice) ----- 1
Conducting business as a nuisance	----- 2	Sale outside scope of license ----- 1
Permitting immoral activity on premises	----- 2	Delivery without bona fide invoice ----- 1
Unqualified employees	----- 2	Unauthorized transportation ----- 1
Hindering investigation	----- 2	Sale to intoxicated persons ----- 1
Permitting foul language on premises	----- 2	
Cases brought by municipalities on own initiative and reported to Division	-----	20
Violations involved:		
Sale to minors	----- 12	Serving women at a bar (local reg.) ----- 1
Permitting brawls on premises	----- 7	Failure to close premises during prohibited hours ----- 1
Sale during prohibited hours	----- 2	Hindering investigation ----- 1
Employing person without identification card (local reg.)	----- 1	
<b>HEARINGS HELD AT DIVISION:</b>		
Total number of hearings held	-----	42
Appeals	----- 6	Seizures ----- 2
Disciplinary proceedings	----- 29	Tax revocations ----- 1
Eligibility	----- 4	
<b>STATE LICENSES AND PERMITS ISSUED:</b>		
Total number issued	-----	932
Licenses	----- 2	Wine permits ----- 2
Employment permits	----- 151	Miscellaneous permits ----- 107
Solicitors'	----- 58	Transportation insignia ----- 324
Disposal	----- 33	Transportation certificates ----- 25
Social affair	----- 230	

Dated: March 5, 1956

WILLIAM HOWE DAVIS  
DIRECTOR

8. AUTOMATIC SUSPENSION - LICENSE SUSPENDED BY LOCAL ISSUING AUTHORITY - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition )  
by )

FRANKLIN J. BAUMANN )

To lift the automatic suspension )  
of Plenary Retail Consumption )  
License C-160, issued by the Board )  
of Alcoholic Beverage Control for )  
the City of Paterson to )

ON PETITION

O R D E R

WILLIAM R. BEHRING, FRANKLIN J. )  
BAUMANN and ROSE BASTIAN )  
T/a BILL & CHAPPY'S )  
86-88 Murray Avenue )  
Paterson, N. J. )

-----  
Schwartz & Schwartz, Esqs., Attorneys for Petitioner.

BY THE DIRECTOR:

It appears from a verified petition filed herein that on December 14, 1955 petitioner Franklin J. Baumann was convicted in the Paterson Magistrate's Court on a charge of selling alcoholic beverages to minors in violation of R. S. 33:1-77, as a result of which he was fined the sum of \$250.00. Said conviction resulted in the automatic suspension for the balance of its term of said license C-160. R. S. 33:1-31.1. Said license certificate was picked up by ABC agents on January 24, 1956.

It further appears from the petition and from the records of this Division that in disciplinary proceedings instituted by the Board of Alcoholic Beverage Control for the City of Paterson, the licensees pleaded guilty to a charge of selling alcoholic beverages to a minor 20 years of age and a minor 17 years of age, and that as a result thereof the Board suspended their license for a period of fifteen days (less five days for the plea), effective from 4:00 p.m. January 24, 1956 to 4:00 p.m. February 3, 1956. The conviction in the criminal proceedings and the charge in the disciplinary proceedings were based upon the same facts. It appearing that the suspension imposed by the Board was adequate and that the suspension has been served, petitioner's request for the lifting of the automatic suspension of the license will be granted.

Accordingly, it is, on this 9th day of February, 1956,

ORDERED that the automatic suspension of License C-160 held by William R. Behring, Franklin J. Baumann and Rose Bastian, t/a Bill & Chappy's, for premises 86-88 Murray Avenue, Paterson, be and the same is hereby lifted and said license is restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS  
Director.

9. DISQUALIFICATION - GOOD CONDUCT FOR MORE THAN FIVE YEARS  
LAST PAST - APPLICATION TO LIFT GRANTED.

MORAL TURPITUDE - MANSLAUGHTER HELD TO INVOLVE MORAL  
TURPITUDE.

In the Matter of an Application )  
to Remove Disqualification )  
because of a Conviction, Pursuant )  
to R. S. 33:1-31.2. )

CONCLUSIONS  
AND ORDER

Case No. 1260.  
-----)

BY THE DIRECTOR:

On December 11, 1939, petitioner was sentenced to a state prison for a term of five to seven years as a result of his conviction of manslaughter. He was paroled from prison on December 16, 1942.

It appears that petitioner became involved in an argument with his wife, who died as the result of a fight that ensued. The crime of voluntary manslaughter of which petitioner was convicted involves the element of moral turpitude. Re Case No. 345, Bulletin 623, Item 6. Petitioner, according to the information received at this Division, has no other criminal record. He testified that for years he has done carpenter work but has never been associated in any capacity with the liquor business.

Petitioner produced three character witnesses (an elevator operator, a packer in a paint factory and a retired electrician) who testified that they have known petitioner ten or more years and that he bears a good reputation in the community in which he lives for being a law-abiding person. The police department of the municipality in which petitioner resides has advised that there are no complaints or investigations presently pending in which he is involved.

I am satisfied from the evidence presented herein that petitioner has been leading a law-abiding existence, especially during the past five years, and that his association with the alcoholic beverage industry will not be contrary to the public interest. I conclude that petitioner is entitled to the relief that he seeks and I shall, therefore, lift his present disqualification.

Accordingly, it is, on this 7th day of February, 1956,

ORDERED that petitioner's statutory disqualification because of the conviction described herein, be and the same is hereby removed, in accordance with the provisions of R. S. 33:1-31.2.

WILLIAM HOWE DAVIS  
Director.

10. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

AARON GELFAND )  
T/a GUS'S DELICATESSEN )  
91 West Hanover Avenue )  
Morris Plains, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Borough Council of the Borough of Morris Plains. )  
-----) )

Edward F. Broderick, Esq., Attorney for Defendant-licensee.  
Dora P. Rothschild, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant has pleaded non vult to a charge alleging the sale of alcoholic beverages to a minor, contrary to Rule 1 of State Regulations No. 20.

On December 3, 1955, the defendant sold a 4/5 quart bottle of Scotch whisky and a half gallon of wine for off-premises consumption to Gordon ---, aged 17 years.

The defendant has no prior adjudicated record. Since this violation occurred before my announcement of increased penalties (see Bulletin 1095, Item 1), the license will be suspended for a period of fifteen days, with five days remitted for the plea, leaving a net penalty of ten days. Re Budenstein, Bulletin 1082, Item 12.

Accordingly, it is, on this 14th day of February, 1956,

ORDERED that Plenary Retail Distribution License D-1, issued by the Borough Council of the Borough of Morris Plains to Aaron Gelfand, t/a Gus's Delicatessen, 91 West Hanover Avenue, Morris Plains, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. February 20, 1956, and terminating at 9:00 a.m. March 1, 1956.

WILLIAM HOWE DAVIS  
Director.

11. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE  
SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

DEMAR CORPORATION  
T/a FRIENDLY TAVERN  
1921 S. 4th Street  
Camden, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-166, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

Albert J. Scarduzio, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On January 11 and 12, 1956, 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 Regulations No. 20.

"2. On the occasions aforesaid, 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 Regulations No. 20."

On January 11, 1956, an ABC agent handed fifty cents to a man, who was then acting as bartender at the defendant's licensed premises, as a bet on a "number." The bartender handed this money to a male patron who was present who accepted it as a "numbers bet." On January 12, 1956, the same ABC agent was again at the licensed premises and informed another bartender, who was then on duty, that he wished to place a "numbers bet." The bartender called one Joseph Cristinzio to the bar, and the agent placed two fifty-cent "numbers bets" with this man. A slip evidencing such bets was later surrendered by Joseph Cristinzio.

Since the violations herein were committed previous to January 16, 1956 (the date I announced that the penalty in a case such as that now under consideration would be increased over that heretofore imposed (Bulletin 1095, Item 1)), the penalty herein will not be affected thereby.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum penalty of twenty days (Re Diehl, Bulletin 1088, Item 4). Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 15th day of February, 1956,

ORDERED that Plenary Retail Consumption License C-166, issued by the Municipal Board of Alcoholic Beverage Control of

the City of Camden to Demar Corporation, t/a Friendly Tavern, for premises 1921 S. 4th Street, Camden, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. February 23, 1956, and terminating at 2:00 a.m. March 9, 1956.

WILLIAM HOWE DAVIS  
Director.

12. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

MANUEL GARCIA )  
T/a LATIN QUARTER )  
103 West Main Street )  
Rahway, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-21, issued by the Municipal Board of Alcoholic Beverage Control of the City of Rahway. )

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Manuel Garcia, Defendant-licensee, Pro se.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On Saturday, December 31, 1955 at about 1:55 a.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages at retail in their original containers for consumption off your licensed premises, viz., 6 twelve ounce cans of Rheingold beer; in violation of Rule 1 of State Regulations No. 38.

"2. On Saturday, December 31, 1955, while investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety were conducting an investigation, inspection and examination at your licensed premises, you failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation, inspection and examination; in violation of R. S. 33:1-35."

The file herein discloses that during the early morning hours of December 31, 1955, two ABC agents were in defendant's licensed premises; that at 1:55 a.m., when about to leave the premises, one of the agents purchased six 12-ounce cans of beer from the bartender. After the agent paid for the beer, both agents left the premises but returned immediately thereafter and made known their identities to the bartender who thereupon verbally admitted the sale of the cans of beer. The defendant joined them and although cooperative at first, suddenly changed his attitude and became very abusive, threatening the agents with reprisals in the future. The bartender then directed false accusations toward the agents.

Defendant has no prior adjudicated record. I shall suspend his license on Charge 1 for fifteen days (Re Murin, Bulletin 1077, Item 5). As to Charge 2: Hindering involves a type of violation which strikes at the very heart of enforcement and control. Where, as here, such hindering involves deliberate threats and false accusations toward enforcement officers who are engaged in the performance of their honest duties, the minimum penalty should and will be twenty days. Cf. Re Village Barn, Inc., Bulletin 1051, Item 3. I shall, therefore, suspend defendant's license on both charges for thirty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 14th day of February, 1956,

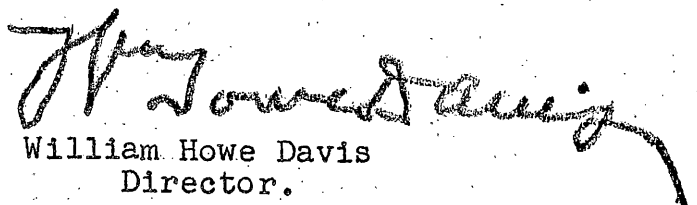
ORDERED that Plenary Retail Consumption License C-21, issued by the Municipal Board of Alcoholic Beverage Control of the City of Rahway to Manuel Garcia, t/a Latin Quarter, for premises 103 West Main Street, Rahway, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. February 21, 1956, and terminating at 2:00 a.m. March 22, 1956.

WILLIAM HOWE DAVIS  
Director.

14. STATE LICENSES - NEW APPLICATION FILED.

John Burns Inc.  
522-24-26 South Broadway  
Gloucester City, N. J.

Application filed March 6, 1956 for Plenary Wholesale License.

  
William Howe Davis  
Director.