

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

BULLETIN 1337

MAY 16, 1960

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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.

May 16, 1960

BULLETIN 1337

1. APPELLATE DECISIONS - ESSEX COUNTY RETAIL LIQUOR STORES ASSN. v.  
NEWARK AND R. H. MACY CO., INC., t/a BAMBERGER'S NEW JERSEY.

ESSEX COUNTY RETAIL LIQUOR STORES )  
ASSOCIATION, )  
 )  
Appellant ) ON APPEAL  
 ) CONCLUSIONS  
v. ) AND ORDER  
 )  
MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY OF )  
NEWARK, AND R. H. MACY CO., INC., )  
t/a BAMBERGER'S NEW JERSEY, )  
 )  
Respondents. )

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Brass & Brass, Esqs., by Leonard Brass, Esq., Attorneys for Appellant.  
Vincent P. Torppey, Esq., by Jacob M. Goldberg, Esq., Attorney for  
Respondent Municipal Board.  
Lum, Fairlie & Foster, Esqs., by William F. Tompkins, Esq., Attorneys  
for Respondent R. H. Macy Co., Inc.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Municipal Board (hereafter Board) whereby it renewed, for the 1959-60 licensing year, plenary retail distribution license D-1 held by respondent R. H. Macy Co., Inc. (hereafter Macy) for premises 109-135 Market Street, Newark.

"The petition of appeal alleges that the action of the Board was erroneous for various reasons which may be summarized as follows:

1. A public hearing was scheduled on June 23, 1959, and on that day, prior to such public hearing and before any testimony was adduced, the Board chairman announced the decision of the Board to renew the license, and thereafter, the testimony was adduced and the record created.
2. Appellant further alleges that the renewal of the license aforesaid is in direct violation of R.S. 33:1-26 providing that a separate license is required for each specific place of business, and the operation and effect of every license is confined to the licensed premises.
3. Appellant alleges that the renewal of the license in its present form is in direct violation of the Revised Ordinances of the City of Newark, more particularly Sec. 3.3, Sec. 3.4 and Sec. 3.37, and also Federal Laws relating to display of Federal Stamps.

4. Appellant further alleges that the renewal of this license in its present form, with four specific places of business, violates the spirit and letter of the law, and more particularly, the rules and regulations of the Division of Alcoholic Beverage Control.

"The respondents deny each of the aforesaid allegations.

"Respondent Macy and its predecessor L. Bamberger and Company have held distribution licenses for the premises in question continuously since 1933.

"As to 1: It appears from the argument and brief of appellant's attorney that the substance of this allegation is that the matter was prejudged. On March 4, 1959, appellant sent to the Board a letter requesting 'a hearing in this matter to determine the merits of our complaints insofar as the multiple division of this particular license is concerned, to the extent that even liquor is sold on various floors of this store under the same license and at various unconnected entrances which are used by the patrons.' On May 25, 1959, appellant sent to the Board a letter referring to its previous letter and contending, in addition, that under the circumstances the license certificate cannot be displayed in accordance with the provisions of Section 3.37 of the Revised Ordinances of the City of Newark concerning alcoholic beverages. After Macy filed its application for renewal of its license for the present fiscal year, the Board scheduled a hearing thereon for June 23, 1959, and at said hearing Mr. Leonard Brass appeared for the objector (appellant herein) and Mr. Charles B. Niebling (of Lum, Fairlie & Foster) appeared for the applicant (respondent Macy herein). Commissioners Clement and Cerefice (members of the Board) conducted the hearing, the third member of the Board being absent. At the opening of the hearing Chairman Clement stated that 'we could see no way, in fairness to our previous decisions, that we can say it was unjustifiable for us to renew during all the years and now to say not to renew it.' After Mr. Brass requested that a record be created for the purpose of an appeal, Commissioner Cerefice replied 'As long as you want to have a record, let's proceed orderly, let us hear from Mr. Niebling and then we will hear you and then the Board will render its decision.' Mr. Niebling presented his argument in favor of renewal. Mr. Brass introduced into evidence five photographs showing various portions of Macy's premises and presented his argument against renewal. Thereafter the two members of the Board approved the renewal of the license. Prior to the hearing held on June 23, an attorney for the Board and the Secretary of the Board had a conference concerning the Macy licensed premises with the Director of Alcoholic Beverage Control, who issued no instructions and rendered no opinion and the members of the Board conferred with the attorney for and some of the officers of Macy at an informal session.

"From the above facts it appears that appellant was granted a hearing in accordance with the provisions of Rule 6 of State Regulation No. 2. It further appears that the preliminary conferences were part of the investigation conducted by the Board pursuant to R.S. 33:1-24; that appellant was not denied due process of law, and that the matter was not prejudged. Passaic County Retail Liquor Dealers Assn. v. Paterson et al., 37 N.J. Super. 187, at 194 (App. Div. 1955).

"As to 2 and 4: In its application for renewal for the current fiscal year, Macy sets forth the location of premises to be licensed as '109-135 Market Street.' It further sets forth that the building containing the premises to be licensed is used as

'Department Store.' It denies that the entire building will constitute the licensed premises and, in response to the request to specify in detail the floors and rooms which will constitute the licensed premises (where alcoholic beverages will be sold, served or stored), it sets forth the following information.

1st floor selling and stock space 2477 sq. ft. corner of Market & Washington Streets. 513 sq. ft. in center aisle -- 112 feet from Market Street entrance.  
 Fourth basement stock and wrapping space, adjacent to the building wall facing Market Street, near Halsey and Bank Street corner, 2760 square feet.  
 Basement selling space 252 sq. ft. at foot of down escalator in center of building.  
 Basement selling and stock area 448 sq. ft. on west side of building at entrance to tunnel under Bank Street.

The aforesaid information in the application determines what constitutes the licensed premises. In Re Millville, Bulletin 35, Item 15.

"Separate areas constituting the licensed premises have been set forth in each application for renewal filed by Macy or its predecessor since at least 1935.

"It is apparent that no sales are made in the fourth basement area as described in the present application, but that alcoholic beverages are sold at each of the other areas above described, and that each has a separate cash register. From the photographs introduced into evidence below and from the testimony given and photographs introduced at the hearing herein it appears that the area first above described is walled off, with two doors leading into the main store and one door leading to a lobby. It is clear, however, that all the areas are within the department store conducted by Macy and that patrons of the store may freely pass from one area to another area without leaving the store.

"R.S. 33:1-26 provides that:

'A separate license is required for each specific place of business and the operation and effect of every license is confined to the licensed premises.'

"The question as to what constitutes a 'specific place of business' has been considered in numerous rulings of the Commissioner or Director. As early as 1935 the question arose as to whether an amusement park containing a main building and two stands at which alcoholic beverages were to be sold required one or more licenses to permit such sales. In reply to an inquiry, Commissioner Burnett, in Re Beisch, Bulletin 81, Item 10, said:

'Where the application describes separate buildings as the premises sought to be licensed, separate licenses will, in general, be necessary. This conclusion is not altered by the fact that separate premises consist of independent stands operated at separate points within a large amusement park. Separate licenses, however, will not invariably be required on the sole ground that the premises sought to be licensed consist of several buildings. Situations may arise where it can reasonably be said that because of the adjacent location of the buildings and their operation as a single unit, they constitute one specified place of business within the meaning of the statute.'

"However, in Re Dodd, Bulletin 241, Item 8, the Commissioner said that two pieces of property could not be said to constitute the

same premises where property belonging to others intervened.

"In Re Schlenger, Bulletin 165, Item 11, the Commissioner said:

'Although a consumption licensee may maintain one or more bars and also a bottle goods department (cf. Bulletin #59, Item #13), all his activities must be part of a single business operated as one unit at a specified place. (Cf. Bulletin #81, Item #10.) A tavern and package store which are conducted distinctly and are separated entirely by a room and hallway are, in substantial sense, separate establishments requiring separate licenses.'

"In determining that the licensed premises, as enlarged, constituted one 'specific place of business', the Commissioner, in The Trustees of the First Particular Baptist Church v. Paterson et al., Bulletin 245, Item 8, said:

'Here then is a single store under common management operated as a single place of business. There are no concessions, no segregations, no separations.'

"See also Novelty Bar, Inc. v. Newark et al., Bulletin 418, Item 9, and cases therein cited; Berry v. Newark, Bulletin 433, Item 8; Essex County Retail Liquor Stores Assn. v. Newark et al., Bulletin 1302, Item 2.

"I conclude that, under the circumstances appearing in the present case, the licensed premises constitute one specific place of business.

"As to 3: Section 3.3 of the Newark ordinance requires Macy to keep permanently displayed a sign stating legal hours for sale for off-premises consumption. Section 3.37 of said ordinance requires a licensee to display the license certificate (framed under glass) in the licensed premises in such manner and place that it may be seen by anyone entering the licensed place of business. The sign and license certificate are displayed in the area on the first floor at the corner of Market and Washington Streets. This satisfies the requirements of said sections. Section 3.4 of said ordinance does not apply to Macy because it conducts an establishment where the principal business is other than the sale of alcoholic beverages.

"After considering the evidence, the exhibits and the briefs submitted herein, I recommend that an order be entered affirming the action of respondent Board and dismissing the appeal."

Pursuant to Rule 14, State Regulation No. 15, oral argument on the Hearer's Report was heard before me on January 13, 1960.

I concur in the Hearer's findings and conclusions, with one exception hereinafter set forth, and I adopt his recommendation.

As set forth in the Hearer's Report, Section 3.4 (clear view) of the City's ordinance does not apply to Macy because it conducts an establishment where the principal business is other than the sale of alcoholic beverages. Section 3.4 is basically inapplicable herein because it relates only to plenary retail consumption licensed premises -- does not relate to plenary retail distribution licensed premises.

The testimony shows that, on occasion, orders for alcoholic beverages were accepted over the regular switchboard (not on the licensed premises) and relayed to the liquor store premises. If it

has not already done so, Macy must take prompt steps to see to it that such calls are transferred to the liquor store or that the customer be instructed to telephone directly to the liquor store which has a separate listing in the telephone directory.

The City of Newark has no ordinance (R.S. 33:1-12, Paragraph 3a) prohibiting a plenary retail distribution licensee from selling alcoholic beverages in or upon premises in which any other mercantile business is carried on. Thus, apart from the issue concerning a separate license for each specific place of business (R.S. 33:1-26), the Macy operation is lawful. The several alcoholic beverage licensed sale and display islands adjoining counters of other merchandise are not, however, physically demarked in any way. This situation places upon the licensee the particularly heavy responsibility of guarding against violations such as sale off licensed premises and sales to minors, but the absence of any violation of the State Alcoholic Beverage Law or of State Regulations or of the City's ordinances throughout the many years of operation by the respondent-licensee demonstrates that, by close and careful supervision, the responsibility has been well borne.

Accordingly, it is, on this 29th day of March 1960,

ORDERED that respondent-licensee shall accept telephoned orders for alcoholic beverages only on the licensed premises as hereinabove indicated; and it is further

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

WILLIAM HOWE DAVIS  
DIRECTOR

2. STATE REGULATION NO. 34 - WHOLESALE PRICES AND MAXIMUM REBATES,  
FREE GOODS, ALLOWANCES AND OTHER INDUCEMENTS - RULE 15 AMENDED.

TO ALL MANUFACTURERS AND WHOLESALERS (B, BL, SBD, V, VL, S, SL,  
R, W, WL AND WW LICENSES):

RULE 15. No manufacturer or wholesaler of alcoholic beverages or association or other organization of manufacturers or wholesalers of alcoholic beverages shall, directly or indirectly, participate in any wise, directly or indirectly, by officers, directors, salesmen, or other employees or agents, or otherwise, in any celebration, anniversary, outing, picnic, dinner, dance or other affair conducted, sponsored or solicited by any licensee licensed to sell alcoholic beverages at retail in the State of New Jersey, or by any officer, director, employee or agent of such a licensee. Nothing herein contained shall prohibit manufacturers or wholesalers of alcoholic beverages, or associations or other organizations of manufacturers or wholesalers of alcoholic beverages, from purchasing tickets, subscriptions or admissions to conventions, dances, outings, picnics or dinners held by, or advertisements in publications or periodicals of, bona fide retailers' trade associations and organizations, or bona fide charitable, religious, fraternal or veterans' organizations.

WILLIAM HOWE DAVIS  
DIRECTOR

Promulgated Wednesday, April 27, 1960.

Effective Monday, May 2, 1960.

Filed with the Secretary of State (N.J.) Wednesday, April 27, 1960.

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (RENTING ROOMS FOR ILLICIT SEXUAL INTERCOURSE) - LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary Proceedings against )

CARL JUHLS )  
t/a BUDD LAKE INN )  
Mt. Olive Road )  
Mt. Olive Township )  
PO Budd Lake, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Mount Olive Township Committee. )

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On December 2 and 9, 1959 you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of arrangements for the renting of rooms, the offering to rent and the renting of rooms for the purpose of illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20."

On the afternoon of December 2, 1959, two ABC agents visited defendant's licensed premises and continued a conversation they had with the licensee on a previous visit concerning the rental of rooms in the licensed premises. One of the agents told the licensee that they desired to rent a couple of rooms for a night during the following week; that they have a couple of "married broads" and asked whether there was back way to the rooms because the agents did not want the women to be observed. The agents received an affirmative answer from the licensee who proceeded at his suggestion to exhibit two rooms to them. After viewing the rooms, the agents told the licensee that they desired to rent the rooms for only a little while, merely for sexual intercourse with the women, to which the licensee replied, "I know."

On December 9, 1959, at about 6:30 p.m., the same two agents entered defendant's licensed premises. The licensee greeted them and asked how they made out with the girls, to which one of the agents replied that the girls would be there. The agents asked whether the rooms were available, to which the licensee replied that he had rooms and the rental for a room was \$5. Asked by the agents if they or the girls needed luggage, the licensee said that it was not necessary. Asked by the agents whether they would be required to sign the register with their real names since they desired the rooms only for an hour or so for sexual intercourse, the licensee told them that it was not necessary; that they could sign the cards and leave them on the desk and he would throw them away the next day.

The licensee then accompanied the agents to the upper floor to the two rooms and the three men then returned to the lobby where the licensee presented register cards to the agents. Asked how they

should be signed, the licensee told one of the agents to sign the name "John Henry or anything", whereupon one of the agents signed the name "Al Henry" and the other "Joe Wilson". The agents then went to the bar and purchased two bottles of beer and two drinks of other alcoholic beverages which were placed on a tray. When paying for these drinks, the agents each additionally gave the licensee a five-dollar bill (the serial number of which had been previously recorded) in payment of the rent for their respective rooms. The agents then brought the tray with the drinks to the rooms.

At about 7:10 p.m., by prearrangement, other ABC agents and a local county detective came into the premises and they, together with the licensee, entered the room which was occupied by each respective agent. When questioned, each agent stated that he was waiting the arrival of a girl, not his wife, to engage in sexual intercourse and that he had rented the room from the licensee who had been told by him that he intended to engage in sexual intercourse with a woman not his wife. Thereafter, the "marked" money and the hotel register card file, including the cards signed by the agents, were seized.

In a signed, sworn statement, the licensee admits that he had told the agents that they did not need any luggage and that he told the agents to sign the register "John Henry" but that he was only "kidding".

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of one hundred eighty days. Re Faessler, Bulletin 1304, Item 3.

Accordingly, it is, on this 28th day of March 1960,

ORDERED that Plenary Retail Consumption License C-5, issued by the Mount Olive Township Committee to Carl Juhls, t/a Budd Lake Inn, for premises on Mt. Olive Road, Mt. Olive Township, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m., Wednesday, April 6, 1960; and it is further

ORDERED that any renewal for the 1960-61 licensing year or transfer of said license, shall be and remain under suspension until 2:00 a.m., Monday, October 3, 1960.

WILLIAM HOWE DAVIS  
DIRECTOR



two of the agents played a game of pool with two of the patrons for drinks and a second game for bets of \$1 each. Defendant held the bets and paid them to the winners. About 1:25 a.m. one of the agents purchased from defendant a bottle of whiskey "to go", and each agent purchased a bottle of beer for on-premises consumption. At 1:40 a.m. the three patrons and the four agents (one of whom was carrying the bottle of whiskey) left the premises. The agents immediately returned and identified themselves to defendant, who admitted the violations.

Defendant has no prior record. I shall suspend defendant's license for fifteen days on Charge 1 (Re Sandor, Bulletin 1270, Item 8); for fifteen days on Charge 2 (Re Black, Bulletin 1221, Item 6) and for fifteen days on Charges 3 and 4 (Re Romeo, Bulletin 1146, Item 11), making a total suspension of forty-five days. Five days will be remitted for the plea, leaving a net suspension of forty days.

Accordingly, it is, on this 29th day of March 1960,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Millstone to Walter C. Schlechtweg, for premises on North side of Main Street, Millstone, be and the same is hereby suspended for forty (40) days, commencing at 1 a.m. Wednesday, April 6, 1960, and terminating at 1 a.m. Monday, May 16, 1960.

WILLIAM HOWE DAVIS  
DIRECTOR

- 5. DISCIPLINARY PROCEEDINGS - FAILURE TO NOTIFY CHANGES IN APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE PRIVILEGES OF LICENSE - LICENSE SUSPENDED FOR 20 DAYS, EFFECTIVE DATES TO BE FIXED BY SUBSEQUENT ORDER BECAUSE PREMISES CLOSED.

In the Matter of Disciplinary Proceedings against )

LINCOLN HOTEL OF ASBURY PARK, INC. )  
t/a LINCOLN HOTEL )  
200 Fourth Avenue )  
Asbury Park, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-65, issued by the City Council of the City of Asbury Park. )

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Anshelewitz & Barr, Esqs., by Max M. Barr, Esq., Attorneys for Defendant-licensee.  
William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. You failed to file with the City Council of Asbury Park, within ten days after the occurrence thereof, written notice of changes in facts set forth in answer to Questions Nos. 30 and 31 of your license application dated May 27, 1959, upon which you obtained your current plenary retail consumption license, such changes being that on or about June 28, 1959 you entered into an agreement with Vartan Tourigian whereby he acquired an interest in your licensed business as a real and beneficial owner and by which you agreed to permit him to retain 50% of the profits

from the business; your failure to file such notice being in violation of R.S. 33:1-34.

- "2. From about June 28, 1959 to about September 8, 1959 you knowingly aided and abetted Vartan Tourigian to exercise, contrary to R.S. 33:1-26, the rights and privileges of your plenary retail consumption license; thereby yourself violating R.S. 33:1-52."

Defendant-licensee, the holder of a plenary retail consumption license, appears to conduct a seasonal summer business. On May 28, 1959 it filed its application for renewal of such license for the 1959-60 licensing year, which renewal was granted on June 9, 1959. Armen Mirjanian is listed in the application as president and Leon Kazanjian as secretary of the corporate licensee. These officers admit that after the renewal of the license Vartan Tourigian actually conducted the licensed business under a verbal agreement with them that Tourigian was to reimburse the corporation for the license fee, Federal stamp and other expenses and split the profits about fifty-fifty at the end of the season; that Tourigian reimbursed the corporate-licensee for these items and, in addition, turned over to the licensee funds with which it paid wholesalers for merchandise. These financial transactions are evidenced by various documents found on the licensed premises. On September 8, 1959, when these facts were developed, it was claimed that there had been no profits and that the licensee had not received any funds from Tourigian other than those hereinabove mentioned.

The licensee failed to file with the local issuing authority written notice of its agreement to pay a percentage of the profits to Tourigian, which was a change from its original answer in its application for the license of a specific question on that score. Such a notice is required under R.S. 33:1-34. Additionally, a licensee is not permitted to enter into an agreement of such nature with a person whose name does not appear on the license for the premises. Re Monterey Operating Company, Inc., Bulletin 1325, Item 4.

Defendant has no prior adjudicated record. The usual penalty for the violations set forth in the charges is suspension of the license for a period of twenty days. Re Valenti, Bulletin 1294, Item 1.

The hotel actually operates only during the summer season and, hence, no effective penalty date will be fixed at this time. The effective dates of the suspension therefore will be fixed by further order which will be entered by me after the licensed premises shall have fully resumed business for the 1960 season.

In the meantime, the licensee must submit satisfactory proof that the unlawful situation has not only been terminated, but will not be resumed at any time hereafter.

Accordingly, it is, on this 23rd day of March, 1960,

ORDERED that Plenary Retail Consumption License C-65, issued by the City Council of the City of Asbury Park to Lincoln Hotel of Asbury Park, Inc., t/a Lincoln Hotel, for premises 200 Fourth Avenue, Asbury Park, be and the same is hereby suspended for twenty (20) days, the effective dates to be fixed by subsequent order, as aforesaid.

WILLIAM HOWE DAVIS  
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

E. F. JENKINS, INC. )  
t/a HUB CITY HOFBRAU )  
74 Albany Street )  
New Brunswick, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-84, issued by the Board of Commissioners of the City of New Brunswick. )

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Defendant-licensee, by Edmund Jenkins, President.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold, served and delivered alcoholic beverages to a minor and permitted said minor to consume alcoholic beverages on its licensed premises, in violation of Rule 1 of State Regulation No. 20.

Acting upon information received at this Division, an ABC agent obtained a voluntary statement from Martin --- (18 years of age) wherein he said that on the late evening of January 4 and early morning of January 5, 1960, he was served a total of four bottles of beer by a bartender employed in defendant's licensed premises. He further stated that before service to him of the beer, no inquiry was made concerning his age.

Defendant has a prior adjudicated record. Effective October 26, 1959 its license was suspended for fifteen days by the local issuing authority for (1) sale of alcoholic beverages to minors and (2) employment of a disqualified person. The minimum suspension for sale to an 18-year-old minor where no aggravating circumstances appear is fifteen days. Re Skrobiszski, Bulletin 1300, Item 5. In view of a similar violation occurring during the past five years, I shall suspend defendant's license for twenty-five days. Re DeLuccia, Bulletin 1314, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 24th day of March, 1960,

ORDERED that Plenary Retail Consumption License C-84, issued by the Board of Commissioners of the City of New Brunswick to E. F. Jenkins, Inc., t/a Hub City Hofbrau, for premises 74 Albany Street, New Brunswick, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m., Tuesday, April 5, 1960, and terminating at 2:00 a.m., Monday, April 25, 1960.

WILLIAM HOWE DAVIS  
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

CLINTON POINT CORP. )  
Intersection of Hwy. 28 and 29 )  
Clinton Township )  
PO Clinton Point, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-10, issued by the Township Committee of Clinton Township. )

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Paul G. Fleischer, Esq., Attorney for Defendant-licensee  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded non vult to the following charge:

"On Monday night November 2 and early Tuesday morning November 3, 1959, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., John ---, age 17, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

Reports of the New Jersey State Police disclose that on Monday night, November 2, and early Tuesday morning, November 3, 1959, John --- (age 17) was in defendant's licensed premises; that he had been served liquor and beer by the bartender without being questioned as to his age; that thereafter the minor was taken to the licensed premises by a member of the local Police Department; that he identified Carl Tannert as the bartender who served him the alcoholic beverages, and that Tannert verbally admitted aforesaid violation.

By way of mitigation the attorney for defendant has advised me in writing that on the particular occasion the bar was busy and the premises were crowded; that the minor appeared to be over twenty-one years of age and so informed the bartender; that the bartender did not ask the minor for proof of age; that the bartender had been instructed not to sell to minors, and that the licensee had no knowledge of the violation. However, a licensee is under duty to exercise close supervision over his licensed premises and violations occurring therein cannot be excused because it had no personal knowledge of them. Rule 33 of State Regulation No. 20; Essex Holding Corp. v. Hock, 136 N.J.L. 28; Re DiAngelo, Bulletin 1252, Item 1. Furthermore, the bartender failed to obtain a written representation from the minor that he was of legal age, as required by R.S. 33:1-77.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days (the minimum penalty for sale of alcoholic beverages to a 17-year-old minor). Re Campbell, Bulletin 1320, Item 10. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 28th day of March 1960,



9. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

ALPHONSE VACCARELLA )  
t/a AL'S BAR & GRILL )  
20 High Street )  
Matawan (Borough), N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-10, issued by the Borough Council of the Borough of Matawan. )

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

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold and permitted the sale and delivery of alcoholic beverages to a minor, and permitted the consumption of such beverages by said minor in his licensed premises, in violation of Rule 1 of State Regulation No. 20.

On information received from the Madison Township Police Department, ABC agents obtained a sworn, written statement from James --- (age 17). It appears therein that on the afternoon of Wednesday, February 24, 1960, he was in defendant's licensed premises and was served with and consumed glasses of draft beer without being questioned by the bartender or required to sign any written representation as to his age.

I have considered the letter submitted by defendant and do not find any matter set forth which warrants imposition of a penalty less than the minimum imposed in a case of this nature.

Defendant has a prior adjudicated record. Effective February 24, 1959 his license was suspended for ten days by the local issuing authority for an "hours" violation. I shall suspend defendant's license for twenty days, the minimum penalty for sale to a 17-year-old minor where no aggravating circumstances appear (Re Campbell, Bulletin 1320, Item 10), to which will be added five days because of the dissimilar violation which occurred within the past five years (Re Sussman, Bulletin 1328, Item 7), 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 28th day of March, 1960,

ORDERED that Plenary Retail Consumption License C-10, issued by the Borough Council of the Borough of Matawan to Alphonse Vaccarella, t/a Al's Bar & Grill, for premises 20 High Street, Matawan, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m., Tuesday, April 5, 1960, and terminating at 2:00 a.m., Monday, April 25, 1960.

WILLIAM HOWE DAVIS  
DIRECTOR

