

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

BULLETIN 1567

July 9, 1964

TABLE OF CONTENTSITEM

1. APPELLATE DECISIONS - PASCH v. PATERSON.
2. DISCIPLINARY PROCEEDINGS (West New York) - SALE DURING PROHIBITED HOURS - FOUL LANGUAGE - COPY OF LICENSE APPLICATION NOT AVAILABLE - HINDERING INVESTIGATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 90 DAYS, LESS 5 FOR PLEA.
3. DISCIPLINARY PROCEEDINGS (Elizabeth) - PINBALL MACHINE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
4. DISCIPLINARY PROCEEDINGS (Elizabeth) - ORDER DEFERRING EFFECTIVE DATE OF SUSPENSION.
5. ACTIVITY REPORT FOR MAY 1964.
6. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN PRIVATE DWELLING - CLAIM FOR RETURN OF ALCOHOLIC BEVERAGES BASED ON BAILMENT REJECTED - ALCOHOLIC BEVERAGES ORDERED FORFEITED.
7. DISCIPLINARY PROCEEDINGS (Millville) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 15 DAYS.
8. DISCIPLINARY PROCEEDINGS (Millville) - ORDER VACATING ORDER OF SUSPENSION PENDING SUPPLEMENTAL HEARING.
9. DISCIPLINARY PROCEEDINGS (Roselle) - PINBALL MACHINE - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Roselle) - ORDER DEFERRING EFFECTIVE DATE OF SUSPENSION.
11. DISCIPLINARY PROCEEDINGS (Newark) - SALE ON ELECTION DAY - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
12. DISCIPLINARY PROCEEDINGS (Newark) - ORDER DEFERRING EFFECTIVE DATE OF SUSPENSION.
13. STATE LICENSE - NEW APPLICATION FILED.

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

BULLETIN 1567

July 9, 1964

1. APPELLATE DECISIONS - PASCH v. PATERSON.

ROBERT PASCH AND HELEN PASCH)	
t/a VIGGIN'S CAFE,)	
)	
Appellants,)	ON APPEAL
)	CONCLUSIONS
v.)	AND ORDER
)	
BOARD OF ALCOHOLIC BEVERAGE)	
CONTROL FOR THE CITY OF)	
PATERSON,)	
)	
Respondent.)	

Cammarano & Palmisano, Esqs., by Peter J. Cammarano, Esq.,
Attorneys for Appellants.
Theodore D. Rosenberg, Esq., by William J. Rosenberg, Esq.,
Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This is an appeal from the action of the respondent whereby it suspended appellants' license for a period of ten days effective November 11, 1963, after appellants were found guilty of a charge alleging sale of alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20. Appellants' premises are located at 1143 Main Street, Paterson.

Upon the filing of the appeal an order dated November 8, 1963 was entered by the Acting Director staying respondent's order of suspension until further order herein. R.S. 33:1-31.

Appellants' petition of appeal alleges that the action of respondent was erroneous because appellants had established a complete defense to said charge as provided in R.S. 33:1-77.

The facts as stipulated by the parties hereto are that a nineteen-year-old minor (date of birth October 2, 1943) on July 27, 1963 was served beer by bartender Robert Pasch (one of the licensees); that, before service thereof, the minor was questioned by the bartender concerning her age and stated that she was twenty-one years old and then produced a copy of a birth certificate of a person with a similar first name in which the age shown thereon was over twenty-one years, and that the minor appeared to be twenty-one years of age.

R.S. 33:1-77 provides as follows:

"Anyone who sells any alcoholic beverage to a minor shall be guilty of a misdemeanor; provided, however, that the establishment of all of the following facts by

a person making any such sale shall constitute a defense to any prosecution therefor: (a) that the minor falsely represented in writing that he or she was twenty-one (21) years of age or over, and (b) that the appearance of the minor was such that an ordinary prudent person would believe him or her to be twenty-one (21) years of age or over, and (c) that the sale was made in good faith relying upon such written representation and appearance and in the reasonable belief that the minor was actually twenty-one (21) years of age or over."

The only question to be resolved in the instant appeal is whether a birth certificate is a sufficient representation in writing to comply with the requirement of the statute aforementioned.

The attorney for appellants relies on the case of Laurino v. Division of Alcoholic Beverage Control, 81 N.J. Super. 220 (reprinted in Bulletin 1544, Item 1) wherein the court held that the false representation on fingerprint cards signed by two minors and filed with local police and the filing with the licensee of the identification cards thereafter issued by the police with their purported ages thereon, and upon which he relied when employing them, is a sufficient representation in writing to satisfy that aspect of R.S. 33:1-77.

In the matter now under consideration, the minor attempted to substantiate the statement made by her that she was twenty-one years of age by producing a birth certificate applicable to another person. Conceding that the other requirements of R.S. 33:1-77 are satisfied, the mere production of a birth certificate, without further written proof, cannot be accepted to constitute a sufficient written representation of a person's age. A fortiori, if this document, without further written proof, were to be accepted in satisfaction of requirement (c) of R.S. 33:1-77, it is quite understandable that the effectiveness of such provision would be totally nullified.

The Laurino case (supra) was based on certain peculiar facts which do not appear in the instant matter. More specifically, the minors signed fingerprint cards upon which their ages were recorded and also were issued police identification cards required by the local ordinance for employment on licensed premises. No such evidence was presented in the instant case.

Under the circumstances, I agree with the respondent that appellants did not satisfy (c) of R.S. 33:1-77 with reference to a proper written representation of their ages, and thus appellants were guilty of sale of alcoholic beverages to the minors in question. Sportsman 300 v. Bd. of Comr's of Town of Nutley, 42 N.J. Super. 488 (App.Div. 1956); Brickley v. Clifton, Bulletin 1326, Item 2, and cases cited therein.

It is recommended, under the circumstances, that an order be entered affirming the action of respondent, fixing the effective dates of the ten-day suspension imposed by respondent, and dismissing the appeal filed herein.

Conclusions and Order

Written exceptions to the Hearer's Report were filed with me by the appellants pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the evidence, the argument of counsel at the hearing herein, and the exceptions of appellants, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 4th day of May 1964,

ORDERED that the action of respondent be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that Plenary Retail Consumption License C-180, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Robert Pasch and Helen Pasch, t/a Viggin's Cafe, for premises 1143 Main Street, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3 a.m. Monday, May 11, 1964, and terminating at 3 a.m. Thursday, May 21, 1964.

JOSEPH P. LORDI
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS - FOUL LANGUAGE - COPY OF LICENSE APPLICATION NOT AVAILABLE - HINDERING INVESTIGATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 90 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

VIRGINIA E. CARLONE
t/a TALLY-HO BAR
5201 Palisade Avenue
West New York, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-13, issued by the Board of Commissioners of the Town of West New York.

Licensee, Pro se.

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

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on April 5, 1964 she (1) and (2) permitted consumption of alcoholic beverages and failed to close the licensed premises, in violation of local ordinance, (3) permitted foul language on the licensed premises, in violation of Rule 5 of State Regulation No. 20, (4) failed to have available for inspection copy of application for license, in violation of Rule 16(b) of State Regulation No. 20, and (5) hindered an investigation (destruction of evidence), in violation of R.S. 33:1-35.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days effective February 6, 1961, and again for twenty days effective January 2, 1962, both for local hours violation.

The prior record of two similar violations within the past five years considered, the license will be suspended on the

first and second charges for sixty days (cf. Re Elbar, Bulletin 1517, Item 5), on the third charge for ten days (Re Manruff Corp., Bulletin 1547, Item 4), on the fourth charge for ten days (Re Edward J. Power, Inc., Bulletin 1487, Item 5), and on the fifth charge for ten days (Re Asselta, Bulletin 1527, Item 4), or a total of ninety days, with remission of five days for the plea entered, leaving a net suspension of eighty-five days.

Accordingly, it is, on this 4th day of May 1964,

ORDERED that Plenary Retail Consumption License C-13, issued by the Board of Commissioners of the Town of West New York to Virginia E. Carlone, t/a Tally-Ho Bar, for premises 5201 Palisade Avenue, West New York, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1964, commencing at 3 a.m. Monday, May 11, 1964; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 3 a.m. Tuesday, August 4, 1964.

JOSEPH P. LORDI
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - PINBALL MACHINE - LICENSE
SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JOSEPH FUCETOLA)
t/a ELIZABETH LANES BAR)
709-717 State Highway #1)
Elizabeth, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-260, issued by the City)
Council of the City of Elizabeth.)

Joseph E. Masini, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 23, 1963, he permitted a pinball machine on the licensed premises, in violation of Rule 7 of State Regulation No. 20.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Polish American Citizens' Club, Bulletin 1512, Item 11.

Accordingly, it is, on this 4th day of May 1964,

ORDERED that Plenary Retail Consumption License C-260, issued by the City Council of the City of Elizabeth to Joseph Fucetola, t/a Elizabeth Lanes Bar, for premises 709-717 State Highway #1, Elizabeth, be and the same is hereby suspended for five (5) days, commencing at 2 a.m. Monday, May 11, 1964, and terminating at 3 a.m. Saturday, May 16, 1964.

JOSEPH P. LORDI
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ORDER DEFERRING EFFECTIVE DATE OF SUSPENSION.

In the Matter of Disciplinary
Proceedings against

JOSEPH FUCETOLA
t/a ELIZABETH LANES BAR
709-717 State Highway #1
Elizabeth, N. J.

AMENDED ORDER

Holder of Plenary Retail Consumption
License C-260, issued by the City
Council of the City of Elizabeth.

Licensee, Pro se.

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

BY THE DIRECTOR:

On May 4, 1964, I entered an order suspending the license herein for five days commencing May 11, 1964. Re Fucetola, Bulletin 1567, Item 3.

Licensee has requested that the imposition of the suspension be deferred until May 18, 1964, and for good cause appearing, I have granted the request.

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

ORDERED that the previous order of suspension herein is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-260, issued by the City Council of the City of Elizabeth to Joseph Fucetola, t/a Elizabeth Lanes Bar, for premises 709-717 State Highway #1, Elizabeth, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. Monday, May 18, 1964, and terminating at 3:00 a.m. Saturday, May 23, 1964.

JOSEPH P. LORDI
DIRECTOR

5.

ACTIVITY REPORT FOR MAY 1964

ARRESTS:			
Total number of persons arrested - - - - -			28
Licensees and employees - - - - -	22		
Bootleggers - - - - -	6		
SEIZURES:			
Still - over 50 gallons - - - - -			1
Alcohol - gallons - - - - -			23.00
Mash - gallons - - - - -			315.00
Distilled alcoholic beverages - gallons - - - - -			1.875
Brewed malt alcoholic beverages - gallons - - - - -			13.81
RETAIL LICENSEES:			
Premises inspected - - - - -			600
Premises where alcoholic beverages were gauged - - - - -			367
Bottles gauged - - - - -			5,691
Premises where violations were found - - - - -			54
Violations found - - - - -			70
Application copy not available - - - - -	19	Disposal permit necessary - - - - -	5
Unqualified employees - - - - -	14	Other mercantile business - - - - -	3
Reg. #38 sign not posted - - - - -	10	Other violations - - - - -	14
Prohibited signs - - - - -	5		
STATE LICENSEES:			
Premises inspected - - - - -			26
License applications investigated - - - - -			10
COMPLAINTS:			
Complaints assigned for investigation - - - - -			362
Investigations completed - - - - -			348
Investigations pending - - - - -			158
LABORATORY:			
Analyses made - - - - -			152
Refills from licensed premises - bottles - - - - -			50
Bottles from unlicensed premises - - - - -			25
IDENTIFICATION:			
Criminal fingerprint identifications made - - - - -			8
Persons fingerprinted for non-criminal purposes - - - - -			365
Identification contacts made with other enforcement agencies - - - - -			216
DISCIPLINARY PROCEEDINGS:			
Cases transmitted to municipalities - - - - -			7
Violations involved - - - - -			7
Sale during prohibited hours - - - - -	5		
Sale to minors - - - - -	2		
Cases instituted at Division - - - - -			22
Violations involved - - - - -			29
Possessing liquor not truly labeled - - - - -	6	Fraud in application - - - - -	1
Sale during prohibited hours - - - - -	5	Advertising at other than filed price - - - - -	1
Permitting immoral acty. on prem. - - - - -	4	Permitting bookmaking on premises - - - - -	1
Sale below filed price - - - - -	3	Permitting lottery (numbers) on prem. - - - - -	1
Beverage Tax Law non-compliance - - - - -	2	Permitting pinball machines on prem. - - - - -	1
Sale to minors - - - - -	2		
Conducting business as a nuisance - - - - -	2		
Cases brought by municipalities on own initiative and reported to Division - - - - -			30
Violations involved - - - - -			37
Sale to minors - - - - -	16	Permitting lottery acty. (numbers) on premises - - - - -	1
Permitting brawl on premises - - - - -	9	Conducting business as a nuisance - - - - -	1
Sale during prohibited hours - - - - -	5	Failure to close prem. dur. proh. hrs. - - - - -	1
Sale on Primary Election Day - - - - -	1	Failure to have copy of lic. appl. on premises - - - - -	1
Permitting minor unaccomp. by parent or guard. on prem. (local reg.) - - - - -	1		
Unqualified employee - - - - -	1		
HEARINGS HELD AT DIVISION:			
Total number of hearings held - - - - -			44
Appeals - - - - -	3	Seizures - - - - -	2
Disciplinary proceedings - - - - -	22	Tax revocations - - - - -	5
Eligibility - - - - -	12		
STATE LICENSES AND PERMITS ISSUED:			
Total number issued - - - - -			14,685
Licenses - - - - -	1	Social affair permits - - - - -	453
Solicitors' permits - - - - -	30	Miscellaneous permits - - - - -	423
Employment permits - - - - -	414	Transit insignia - - - - -	11,985
Disposal permits - - - - -	59	Transit certificates - - - - -	1,320
OFFICE OF AMUSEMENT GAMES CONTROL:			
Licenses issued - - - - -	117	Enforcement files established - - - - -	1

JOSEPH P. LORDI
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

Dated: June 3, 1964

6. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN PRIVATE DWELLING - CLAIM FOR RETURN OF ALCOHOLIC BEVERAGES BASED ON BAILMENT REJECTED - ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure)	Case No. 11,134
on September 8, 1963 of 33)	
bottles of whiskey and 128 cans of)	ON HEARING
beer in the premises of Brodies Shorts,)	CONCLUSIONS
916 West 3rd Street, in the City of)	AND ORDER
Plainfield, County of Union and State)	
of New Jersey.)	

Donn P. Slonim, Esq., appearing for Brodies Shorts.

I. Edward Amada, Esq., and David S. Piltzer, Esq., appearing for
the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing pursuant to R.S. 33:1-66 and State Regulation No. 28 to determine whether 33 bottles of whiskey and 128 cans of beer, described in an inventory herein-after referred to, attached hereto and made part hereof, and marked "Schedule A", seized on September 8, 1963 at the premises of Brodies Shorts, 916 West 3rd Street, Plainfield, constitute unlawful property and should be forfeited.

The seizure was made by local police officers because of alleged unlawful sales of alcoholic beverages at the premises. The said alcoholic beverages were later turned over to ABC agents and the seizure was adopted by this Division.

When the matter came on for hearing pursuant to R.S. 33:1-66, Brodies Shorts, represented by counsel, appeared at the said hearing and sought return of the alcoholic beverages.

The affidavit of mailing, notice of hearing, together with the affidavit of publication of said notice concerning the seizure, were admitted into evidence, and it was stipulated by counsel that no license was issued to him or to the premises of 916 West 3rd Street, Plainfield, authorizing the sale of alcoholic beverages.

A brief summary of the Division's case reflects the following: On September 8, 1963, at about 9:00 a.m. local police received a telephone call that a shot was fired at the above-named premises of Brodies Shorts, and, upon responding, the police were unable to find the person who allegedly fired said shot.

However, upon their arrival the police observed approximately 15 men and women who had been engaged in drinking. There was a large quantity of empty liquor bottles and beer cans strewn throughout the first floor of said premises.

William H. Jennings testified that he resides at the above premises and had been living there for a number of years. He returned to his home in the early morning of September 8, 1963 and noted that there were about between 11 and 15 persons at a party on the first floor, and they were consuming alcoholic beverages.

Shortly after his return he went upstairs to the second floor and made several purchases of alcoholic beverages, during the night, of whiskey from Brodies Shorts, from whom he had purchased whiskey on numerous occasions in the past. He particularly recalled purchasing a bottle of Seagram 7 Whiskey for which he paid Shorts \$4.00, and which was totally consumed by a friend of his and himself. Later, in the early morning, he returned to Shorts' room and purchased a bottle of Old Hickory Whiskey at a cost of \$4.00. The Old Hickory Whiskey, however, remained unopened at the time of the arrival of the police.

On cross-examination, he admitted that he had been drinking at various taverns the early part of the evening and returned home with two companions. He denied knowing who fired the shot except that he is certain he was not the culprit.

Sergeant Michael Bencivengo of the local police department testified that on Sunday morning, September 8, 1963 at approximately 9:00 a.m. he responded to a call at the above-named premises following a report that a gun had been fired. When he arrived he entered the living room and found that it contained a couple of chairs, a juke box, a record player; and there were 3 or 4 men and women present. He also noted that there were "many, many empty bottles of whiskey, and also many empty cans of beer lying on the counters and garbage disposal boxes."

After questioning Jennings he went up to the room occupied by Shorts on the second floor, and interrogated Shorts about the alleged sale of alcoholic beverages. A search warrant was obtained and shortly thereafter he returned to the premises. In the company of several other police officers, he searched the room of Shorts and found a large quantity of beer and whiskey, as listed in the inventory. Shorts admitted that he had no license authorizing him to sell alcoholic beverages. He was thereupon arrested, charged with violation of R.S. 33:1-50(e), namely, the unlawful sale of alcoholic beverages, arraigned in the Plainfield Municipal Court and held in bail for action by the Union County Grand Jury.

Brodies Shorts, the claimant herein, denied selling alcoholic beverages on the date alleged and testified in substance, as follows: He has lived at these premises for a number of years; is retired, receives a total disability pension of \$176.00 a month; and has no other source of income. He has a large stock of whiskey and beer in his apartment, part of which he was keeping for some of his friends.

"A Some of it belonged to me, yes.

Q Do you know which belonged to you?

A No, not offhand. There was some in fancy bottles, you know, in my closet.

* * * * *

Q Did you tell him it was all yours?

A I told him it wasn't all mine but I was responsible for it. I told him different fellows.

Q You told him different fellows: A Yes.

Q Did you give him the names of the fellows? A No, I didn't give him the names of the fellows."

He retired on the previous night at about 8:00 p.m. and didn't awaken until about 7:00 a.m., when a friend of his, one Edward Jackson, came in to the premises to clean up the kitchen, the bathroom and the other rooms on the first floor. He denied selling any whiskey to anyone on the date in question and further denied knowing that there was a party going on.

He also heard a shot fired and threatened to call the police but did not, in fact, do so. He further stated that the bottle of Old Hickory was not sold to Jennings but was, in fact, taken without his permission, from his dresser, during the interrogation by the police officers. He explained that he has no knowledge of how all the empty bottles and beer cans came to be there, except that "It is a rooming house, all drink whiskey and beer, and this one bring a bottle and that one a bottle, so they all could be there."

On cross-examination, he admitted that he could not specifically identify the whiskey or beer which actually belonged to him and insisted that he was holding some for "different fellows" whose names he could not recall.

Sergeant Bencivengo, recalled by the Division, refuted the testimony of Shorts, with respect to the owner of the whiskey and beer. He insisted that Shorts claimed ownership of all of the whiskey and beer and never mentioned anything about holding the same, or any part of the said beverages for friends of his.

Several other witnesses produced by the claimant failed to affirmatively support the testimony of claimant because these witnesses were not present at the time of the alleged sales; thus, they lent little light upon what actually transpired on this date.

I have carefully examined, analyzed and evaluated the testimony, and find, as a fact, that the evidence herein substantially and convincingly supports the Division's allegations that the claimant possessed alcoholic beverages intended for unlawful sale, and that they were, in fact, sold by him on September 8, 1963. I have observed the demeanor of Jennings on the stand, and am persuaded that he has given a forthright and true account of the transactions with the claimant.

I am equally satisfied that his purchases on this occasion were similar to other purchases which he had made from Shorts during the two years that he resided at that premises. His narrative was consistent, credible and supported by the empiric evidence as testified to by the other witnesses. I have particular reference to the large quantity of empty bottles on the first floor of the premises and the substantial stock of whiskey found in Shorts' apartment. The narrative given by Jennings to the police authorities on the morning of September 8, 1963 was substantially the same as that testified to here under oath.

On the other hand, the testimony of Shorts was decidedly suspect. I reject his version of what transpired because it is incredible and not in consonance with common experience. I particularly note the explanation given by him for the large

quantity of alcohol in his premises, namely, that he held these in "custody" for some of his unnamed "friends". The totality of the circumstances leads me to the inevitable conclusion that the large stock of alcoholic beverages was possessed by the claimant with intent to sell the same and that, he did, in fact, sell the same without a license authorizing said sale. Therefore, such alcoholic beverages are illicit and subject to forfeiture. Seizure Case No. 10,898, Bulletin 1500, Item 2. Since by the preponderance of the believable evidence, the Division has proven that this claimant sold alcoholic beverages without a license authorizing him to sell the same, I am imperatively influenced to recommend the finding that an Order be entered forfeiting the alcoholic beverages as set forth in the annexed schedule. R.S. 33:1-1(1); R.S. 33:1-2; R.S. 33:1-66; Seizure Case No. 10,934, Bulletin 1510, Item 5; Seizure Case No. 9576, Bulletin 1212, Item 3; Seizure Case No. 10,044, Bulletin 1313, Item 6.

Conclusions and Order

No exceptions were taken to the Hearer's Report within the time limited by Rule 4 of State Regulation No. 28.

After carefully considering the facts and circumstances herein, I concur in the Hearer's findings and conclusions and adopt them as my conclusions herein.

Accordingly, it is on this 4th day of May, 1964

DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" attached hereto, constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66 and shall 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.

JOSEPH P. LORDI
DIRECTOR

SCHEDULE "A"

33 - bottles of whiskey
128 - cans of beer

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
 LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED
 FOR 15 DAYS.

In the Matter of Disciplinary
 Proceedings against

EDMUND WRZESNIEWSKI
 t/a EDDIE'S BAR
 w/s of S. Second Street
 South Delsea Drive
 Millville, N. J.

)
)
) CONCLUSIONS
) AND ORDER
)
)
)

Holder of Plenary Retail Consumption
 License C-11, issued by the Board of
 Commissioners of the City of Millville.

 Licensee, Pro se.

David S. Piltzer, Esq., Appearing for the Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Licensee pleaded not guilty to a charge alleging that on March 10, 1964, he possessed on his licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

At the hearing herein an ABC agent testified that he visited the licensed premises wherein he gauged and tested licensee's open stock of assorted brands of liquors, and that the contents of a 4/5th quart bottle labeled "J & B Blended Scotch Whisky, 86 Proof" appeared off in color; that he called this to the attention of the licensee who agreed that such was so but professed innocence of tampering with the bottle in question; that at the agent's request, a sealed bottle of the brand in question was opened and a sample thereof was compared with that taken from the questionable bottle; that when the colors of the respective bottles varied, the agent took the questionable bottle and another sealed bottle of the said brand and retained them in his custody until March 11, 1964, when he personally delivered the bottles to the Division's chemist.

The Division's chemist testified that he analyzed the sample of the questionable bottle and also a sample of the whiskey taken from a sealed bottle for comparative purposes and found that the whiskey in the questionable bottle was slightly high in acids, very high in solids, and the color thereof was very dark. The chemist testified that in his opinion the questionable bottle did not contain genuine "J & B Blended Scotch Whisky, 86 Proof" as labeled.

The licensee testified that he agreed with the facts as testified to by the agent, but that he had been away for several weeks just prior to the agent's visit and personally could not account for any substitution of the whiskey as charged. He did testify, however, that his bartender stated to him that, during his absence, the bottom of a brass pourer fell into the bottle; that he (the bartender) removed it.

The chemist testified that the presence of a piece of brass might, through chemical changes, cause the whiskey to be cloudy but the contents of the questionable bottle were clear, and that the acid and solic content would not be affected thereby.

A liquor licensee is responsible when alcoholic beverages not truly labeled are found on his licensed premises. Cedar Restaurant & Cafe Co. v. Hock, 135 N.J.L. 156 (Sup. Ct. 1947); Re Kruvant, Bulletin 1291, Item 3; Re Hala Corporation, Bulletin 1525, Item 4; Re Bozzone, Bulletin 1541, Item 8.

I have carefully considered the evidence adduced herein and find as a fact that the contents of the questionable bottle found on the licensee's premises did not contain the genuine product of the named brand. Hence I conclude that the Division has established the truth of the charge by a fair preponderance of the believable evidence, and I recommend that the licensee be adjudged guilty as charged.

The minimum suspension of a license for possession of one bottle of alcoholic beverages not truly labeled is ten days. Re Fourdee Tavern, Inc., Bulletin 1546, Item 10. However, the licensee herein has a prior dissimilar adjudicated record. Effective June 24, 1963, his license was suspended for five days by the local issuing authority for sale of alcoholic beverages to a minor. Considering the prior record, it is further recommended that an order be entered suspending the license for fifteen days. Re Sramowicz, Bulletin 1550, Item 13.

Conclusions and Order

No exceptions to the Hearer's Report were filed with me within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the transcript of the proceedings, the exhibits introduced at the hearing, and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein. Hence I shall enter an order as recommended.

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

ORDERED that Plenary Retail Consumption License C-11, issued by the Board of Commissioners of the City of Millville to Edmund Wrzeniewski, t/a Eddie's Bar, for premises on w/s of S. Second Street, South Delsea Drive, Millville, be and the same is hereby suspended for fifteen (15) days, commencing at 1 a.m. Wednesday, May 13, 1964, and terminating at 1 a.m. Thursday, May 28, 1964.

JOSEPH P. LORDI
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ORDER VACATING ORDER OF SUSPENSION
PENDING SUPPLEMENTAL HEARING.

In the Matter of Disciplinary)
Proceedings against)
EDMUND WRZESNIEWSKI)
t/a EDDIE'S BAR) ORDER
w/s of S. Second St.)
South Delsea Drive)
Millville, N. J.)
Holder of Plenary Retail Consumption)
License C-11, issued by the Board of)
Commissioners of the City of Millville.)

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

BY THE DIRECTOR:

On May 6, 1964, I entered an order suspending the license
herein for fifteen days commencing at 1 a.m. Wednesday,
May 13, 1964. Re Wrzeniewski, Bulletin 1567, Item 7.

It now appears that certain additional evidence should
be taken and considered.

Accordingly, it is, on this 12th day of May 1964,

ORDERED that the order of suspension heretofore entered
herein be and the same is hereby vacated pending the further
conduct of these proceedings.

JOSEPH P. LORDI
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - PINBALL MACHINE - PRIOR DISSIMILAR
RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
GREEN STAR, INC.)
t/a ROSELLE LANES & COCKTAIL LOUNGE) CONCLUSIONS
108-118 Chestnut Street) AND ORDER
Roselle, N. J.)
Holder of Plenary Retail Consumption)
License C-9, issued by the Mayor and)
Council of the Borough of Roselle.)

Russell H. Hulsizer, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
March 23, 1964, it permitted a pinball machine on its licensed
premises, in violation of Rule 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license
by the municipal issuing authority for eight days effective July
3, 1960, for sale of alcoholic beverages to a minor.

The license will be suspended for ten days (Re Stadium Cocktail Lounge, Inc., Bulletin 1559, Item 7), to which will be added five days by reason of the record of suspension for previous dissimilar violation within the past five years (Re Vamos, Bulletin 1541, Item 5), or a total of fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days.

Accordingly, it is, on this 5th day of May, 1964,

ORDERED that Plenary Retail Consumption License C-9, issued by the Mayor and Council of the Borough of Roselle to Green Star, Inc., t/a Roselle Lanes & Cocktail Lounge, for premises 108-118 Chestnut Street, Roselle, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Tuesday, May 12, 1964, and terminating at 2:00 a.m. Friday, May 22, 1964.

JOSEPH P. LORDI
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - ORDER DEFERRING EFFECTIVE DATE OF SUSPENSION.

In the Matter of Disciplinary)
Proceedings against)

GREEN STAR, INC.)
t/a ROSELLE LANES & COCKTAIL LOUNGE)
108-118 Chestnut St.)
Roselle, N. J.)

AMENDED
ORDER

Holder of Plenary Retail Consumption)
License C-9, issued by the Mayor and)
Council of the Borough of Roselle.)

Russell H. Hulsizer, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

On May 5, 1964, I entered an order suspending the license herein for ten days commencing May 12, 1964. Re Green Star, Inc., Bulletin 1567, Item 9.

Licensee has requested that the imposition of the suspension be deferred until after "the first part of June" and, for good cause appearing, I have granted the request.

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

ORDERED that the previous order of suspension herein is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-9, issued by the Mayor and Council of the Borough of Roselle to Green Star, Inc., t/a Roselle Lanes & Cocktail Lounge, for premises 108-118 Chestnut Street, Roselle, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, June 15, 1964, and terminating at 2:00 a.m. Thursday, June 25, 1964.

JOSEPH P. LORDI
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - SALE ON ELECTION DAY - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JAMES J. VIESPOLI)
t/a JACK'S BAR & GRILL)
257 Clifton Avenue)
Newark 4, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-582, issued by the Municipal)
Board of Alcoholic Beverage Control of)
the City of Newark.)

Samuel Raffaelo, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on
Tuesday, April 21, 1964, Primary Election Day, he sold drinks
of alcoholic beverages during polling hours, in violation of
Rule 2 of State Regulation No. 20.

Absent prior record, the license will be suspended for
fifteen days, with remission of five days for the plea entered,
leaving a net suspension of ten days. Re Lazar, Bulletin 1395,
Item 5.

Accordingly, it is, on this 11th day of May 1964,

ORDERED that Plenary Retail Consumption License C-582,
issued by the Municipal Board of Alcoholic Beverage Control
of the City of Newark to James J. Viespoli, t/a Jack's Bar &
Grill, for premises 257 Clifton Avenue, Newark, be and the same
is hereby suspended for ten (10) days, commencing at 2 a.m.
Monday, May 18, 1964, and terminating at 2 a.m. Thursday,
May 28, 1964.

JOSEPH P. LORDI
DIRECTOR

12. DISCIPLINARY PROCEEDINGS - ORDER DEFERRING EFFECTIVE DATE OF SUSPENSION.

In the Matter of Disciplinary
Proceedings against)

JAMES J. VIESPOLI)
t/a JACK'S BAR & GRILL)
257 Clifton Ave.)
Newark 4, N. J.)

AMENDED
ORDER

Holder of Plenary Retail Consumption)
License C-582, issued by the Municipal)
Board of Alcoholic Beverage Control of)
the City of Newark.)

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

BY THE DIRECTOR:

On May 11, 1964, I entered an order suspending the
license herein for ten days commencing May 18, 1964. Re Viespoli,
Bulletin 1567, Item 11.

Licensee has requested that the imposition of the
suspension be deferred until June 29, 1964, and for good cause
appearing, I have granted the request.

Accordingly, it is, on this 15th day of May, 1964,

ORDERED that the previous order of suspension herein is
hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-582,
issued by the Municipal Board of Alcoholic Beverage Control of
the City of Newark to James J. Viespoli, t/a Jack's Bar & Grill,
for premises 257 Clifton Avenue, Newark, be and the same is hereby
suspended for the balance of its term, viz., until midnight,
June 30, 1964, commencing at 2:00 a.m. Monday, June 29, 1964; and
it is further

ORDERED that any renewal license that may be granted shall
be and the same is hereby suspended until 2:00 a.m. Thursday,
July 9, 1964.

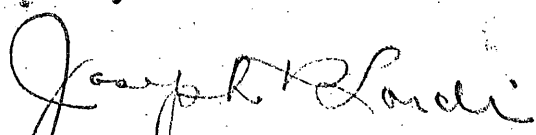
JOSEPH P. LORDI
DIRECTOR

13. STATE LICENSE - NEW APPLICATION FILED.

Joeli Wine Distributors, Inc.
t/a Pirrone Wine Sales, Perrone Wine &
Spirits, Alda Import Co., Charlotte Vinicole
Cie., Edelweiss Distributing Co., Esther
Distributing Co. and Leona Wine Co.
560 Bercik Street
Elizabeth, New Jersey

Application filed June 29, 1964 for
place-to-place transfer of Plenary
Wholesale License W-25 from 327 North
14th Street, Kenilworth, New Jersey.

New Jersey State Library


Joseph P. Lordi
Director