

STATE OF NEW JERSEY
 Department of Law and Public Safety
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL
 1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1730

May 11, 1967

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STATE OF NEW JERSEY
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1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1730

May 11, 1967

1. APPELLATE DECISIONS - HODES CORPORATION v. NEWARK.

HODES CORPORATION,)
)
Appellant,)
)
v.) ON APPEAL
) CONCLUSIONS
) AND ORDER
MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY)
OF NEWARK,)
)
Respondent.)

Mordecai Sarbone and Jacob M. Goldberg, Esqs., by Jacob M.
Goldberg, Esq., Attorneys for Appellant.
Norman N. Schiff, Esq., by Anthony J. Iuliani, Esq., Attorney
for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from respondent's unanimous action on September 21, 1966, whereby effective October 1, 1966, it revoked appellant's plenary retail consumption license for premises 174 Belmont Avenue, Newark, after finding appellant guilty of the following charge:

"On March 9, 22, 31, April 6, May 20, June 9, 1966, and on divers other days, you allowed, permitted and/or suffered in and upon your licensed premises immoral activity in that you, by and through your employees, agents and/or servants did allow persons to make overtures and arrangements for the sale and purchase of narcotics; and that you further allowed, permitted and/or suffered persons who indulged in and/or appeared to indulge in the use, sale and purchase of narcotics to frequent and congregate in and upon your said licensed premises; and you allowed, permitted and/or suffered and otherwise conducted your licensed place of business in such a manner as to become a nuisance and to be completely offensive to public morals and common decency; in violation of Rule 5 of State Regulation No. 20."

Upon filing of the appeal, an order dated September 29, 1966 was entered by the Director staying respondent's order of revocation until further order herein.

Appellant contends in its petition of appeal that respondent "failed to produce any proofs or any legitimate inferences to be inferred from its proofs sustaining the charge against the licensee. Its resolution and order was contrary to the weight of the evidence" and prays that the action of respondent be reversed.

Respondent's answer denies the aforesaid allegations and states that "the grounds upon which the issuing authority made its decision were based upon the factual testimony before the Board from which it, in its sound discretion, concluded that the penalty imposed substantiated such action."

The hearing on the appeal was de novo pursuant to Rule 6 of State Regulation No. 15. The stenographic transcript of the hearing below was submitted in accordance with Rule 8 of State Regulation No. 15 and was supplemented at this hearing by testimony of witnesses produced on behalf of appellant.

Detective Frank Ruggiero, testifying at the hearing below, stated that he had been assigned for four years to conduct narcotics investigations throughout the city, especially to "particular spots where narcotic addicts hang out and congregate" that at 9:05 p.m. on June 9, 1966, he and two fellow detectives made an arrest of one Frank P-- in appellant's licensed premises and that Frank was charged with "possession of twelve decks of heroin"; that he (Ruggiero) visited appellant's premises once a week and on every occasion observed registered users of narcotics in the premises; that on each visit Horace Gayle was tending bar.

On cross examination, Detective Ruggiero testified that he was graduated from the Federal Narcotics School in Washington, D. C. and that, by looking at a person who used narcotic drugs, it could be detected "from their mannerisms, their manners, their looks and their eyes, their actions" and thereafter by checking his arm "and see whether there were these marks, and if I see them, I can tell whether it is so." When questioned concerning the arrest of Frank, it was stated by Detective Ruggiero that Detective Ballard "grabbed him (Frank) because he was trying to dispose of the narcotics" which he had in his hand. Detective Ruggiero also testified that he spoke to Paul Hodes who said "that they are ruining his business and because of that he couldn't make a living there."

At the hearing below, it was stipulated by the attorneys for the respective parties that the testimony of Detective Richard Ballard would be similar to and in corroboration of that given by Detective Ruggiero.

Jackie F--, an inmate of the City Jail, testified that in April 1966, he was apprehended for making a sale of narcotics "in the bathroom" of appellant's premises; that on another occasion, he was charged with the sale of narcotics in the telephone booth in appellant's premises. He further testified that Horace Gayle was the bartender and that he (Jackie) had "seen different drug users around there", both "outside and inside" appellant's premises.

Frank P-- testified that he has been indicted for "possession of narcotics", i.e., heroin, and refused to answer other questions asked of him "on the ground that it might incriminate me."

Officer William H. Williams testified that on March 22, 1966, while on special assignment and accompanied by an informer, he visited appellant's premises and was introduced to Harold N-- from whom the informant made a purchase of narcotics "in the area between the bar and the cigarette machine"; that on March 31, 1966, he observed his informant purchase narcotics from Jackie in the telephone booth and on April 6, 1966, he (Williams) purchased narcotics from Jackie "in the bathroom", both places being located in appellant's premises.

Officer Williams at the hearing below identified a man who stated his name to be Rayfield Thracher as the bartender on duty on the occasions when he was at appellant's premises. However, he stated that he thought Thracher to be the person "but I am not sure."

George R--, an inmate of a county penitentiary, testified that he was under indictment for possession of narcotics in appellant's premises on May 20, 1966, and refused to answer questions relating thereto.

Paul Hodes aforementioned, an officer of appellant corporate licensee, testified herein that he attended the hearing before respondent and, although he and Horace Gayle (who was the only bartender) sat in the front row, Officer Williams identified another person as the bartender employed by appellant. Hodes further testified that since March 1, 1966, he had no personal knowledge when Gayle reported for work as he (Hodes) is employed elsewhere. He further stated he spent little time at appellant's premises after March (1966) "when I got disgusted, I couldn't take it." Thereafter, he called the licensed premises on the telephone each day, visited the premises "once or twice a week" and "stopped there Sundays to check out everything in the mornings, to see if everything was all right." When confronted with a list of alleged troublesome incidents allegedly happening during various months in 1966 and asked if he was told about such conditions, he answered, "No, from nobody." Hodes stated that he testified at the hearing before respondent to the effect that undesirable persons were "hanging outside the premises, walking in and out."

Horace Gayle testified before respondent that he has been employed by appellant for six years and is on duty as bartender at night, his hours being "from 4 o'clock to 10 o'clock, sometimes before 10 o'clock closing"; that during 1965 and the early part of 1966, a problem arose at the licensed premises with persons who "looked like 'winos'" who "would hang out there and when they congregated there, I called up the police" on many occasions; that in an attempt to eliminate the problem, "We had a special police officer for three or four months"; that these persons "would stop the customers, and they tried to come in, and they couldn't get out without being stopped"; that every time the police were called, "these people would disappear and after the police left, they would come back again"; that he had no knowledge of anyone selling or using narcotic drugs.

On cross examination, Gayle testified that he could not tell whether a person was a "wino", a persons was under the influence of drugs, or a person who was intoxicated. Gayle said he did not know Jackie F--, Harold N-- or Frank P--. He further stated that Detective Ruggierio came into the licensed premises but that he (Gayle) did not know that he was a police officer.

At the instant hearing, Gayle testified that at the hearing below, when Officer Williams was asked to identify appellant's bartender, "He [Williams] looked around for a little while and then he picked the fellow out. The fellow was sitting on the other side next to me." When Gayle was asked whether the name of the person identified by Officer Williams was Rayfield Thracher, Gayle stated that he did not know the man's name as he had never seen him before and that the person identified had never been employed by appellant.

From the testimony of Paul Hodes, who is employed elsewhere, it is apparent that since March 1966, he spent very

little time at appellant's licensed premises. The fact that he telephoned the tavern each day and visited the premises on Sundays indicates the reason for his lack of knowledge as to the manner in which the business was conducted. He stated that he was never told about illegal occurrences alleged to have taken place for many months inside and outside the premises. "However, even in the absence of actual knowledge, a licensee cannot escape the consequences of the occurrence of incidents, such as are hereinabove related, on his licensed premises. He cannot hide behind his employees." Re Paton, Bulletin 898, Item 3. Cf. Rule 33 of State Regulation No. 20.

Officer Ruggiero, assigned to the Narcotics Squad, testified that he had spoken to Paul Hodes with reference to the class of persons congregating at and in appellant's establishment. Prior to charges being preferred in this matter, it appears that ample warning was given to Paul Hodes of the undesirables frequenting appellant's premises. Licensed premises are not a safe haven for persons who either use or sell narcotic drugs.

Appellant challenges the sufficiency of the evidence to establish that appellant allowed, permitted and/or suffered the violation and otherwise conducted its licensed premises in such manner as to become a nuisance and to be completely offensive to public morals and common decency.

The testimony of the police officers, which I am satisfied is true, who apprehended persons who possessed narcotics and persons who sold narcotics in the licensed premises, is uncontradicted. There is also testimony of the persons, together with their admissions, to the effect that sales of narcotics were made in the licensed premises. In State v. Berman, 120 N.J.L. 381, 383, Chief Justice Brogan, speaking for the Supreme Court, stated:

"It has been repeatedly held that any place of public resort is a public nuisance where illegal practices are habitually carried on or when such place becomes the habitual resort of thieves, drunkards, prostitutes &c., who gather there for an unlawful purpose or make it a rendezvous where plans may be concocted for depredations upon society and disturbing either its peace or its rights of property."

The privilege of selling alcoholic beverages at retail to the public--one granted to the few and denied to the many (Paul v. Gloucester County, 50 N.J.L. 585)--must be exercised in the public interest. It is apparent by the manner in which the licensed premises has been conducted that the appellant has demonstrated a shocking lack of appreciation for the understanding of the fundamental decencies and proprieties in the operation of the licensed premises. Although Paul Hodes, an officer of appellant, did not personally participate in the matters under consideration, which apparently have been occurring over a long period of time, it was the duty of those in charge of appellant's licensed premises to see that the establishment was conducted in a manner conducive to the best interests of the liquor industry.

Judge Jayne, speaking for the court in In re 17 Club, Inc., 26 N.J.Super. 43, 52 (App.Div. 1953), said:

"The governmental power extensively to supervise the conduct of the liquor business and to confine the conduct of that business to reputable licensees who will manage it in a reputable manner has uniformly been accorded broad and liberal judicial support."

The fact that at the hearing below Officer Williams did not identify Gayle as the bartender employed at appellant's licensed premises has little merit as it was explained by Williams that he was not certain of the identification of the alleged bartender.

Paul Hodes' ignorance as to what occurred in its premises cannot be excused, particularly where, as here, he absents himself from the licensed premises and, for appreciable periods of time, leaves the management of the licensed business to another, thus substantially abandoning supervision of the licensed premises. Re Filippone, Bulletin 875, Item 6.

Although there was no evidence presented concerning the date of March 9, 1966 contained in the charge, I find appellant guilty with reference to all other dates set forth therein. It is recommended that an order be entered affirming respondent's action in finding appellant guilty and revoking its license.

Conclusions and Order

Pursuant to Rule 14 of State Regulation No. 15, written exceptions to the Hearer's report and written argument in support thereof were filed by the attorney for the appellant.

I have carefully considered the exceptions filed and the argument of appellant's attorney with reference thereto, all of which have either been answered by the Hearer's report or are without merit.

I am in accord with the findings of the Hearer based upon the evidence presented that appellant had relinquished to its employees its responsibility of supervising the licensed premises. Those in charge permitted the patrons to conduct themselves in such manner as to constitute a nuisance and in detriment of the alcoholic beverage industry as well. Appellant's failure to eliminate the serious and deplorable conditions left no alternative on the part of respondent other than to take drastic action.

Appellant's attorney contends that the penalty imposed was too harsh. However, the legislature invested the issuing authority (respondent) with power to suspend or revoke licenses after hearing, for certain enumerated violations including violations of the law or of state or local regulations. R.S. 33:1-31. The fact that a penalty is severe does not, of itself, justify reduction on appeal.

Under the circumstances and after careful examination of the transcripts of the testimony herein, the exceptions filed and the argument of the attorney for appellant in support thereof, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 15th day of March, 1967,

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-291, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Hodus Corporation for premises 174 Belmont Avenue, Newark, be and the same is hereby revoked, effective immediately.

JOSEPH P. LORDI
DIRECTOR

2. APPELLATE DECISIONS - JOSEPH I. MAENNER & SONS, INC. v. SOMERS POINT.

JOSEPH I. MAENNER & SONS, INC.,)	
t/a Maenner's Cafe,)	
)	
Appellant,)	ON APPEAL
)	CONCLUSIONS
v.)	AND ORDER
)	
COMMON COUNCIL OF THE CITY OF)	
SOMER POINT,)	
)	
Respondent.)	

 Samuel Epstein, Esq., Attorney for Appellant.
 Blatt, Blatt & Consalvo, Esqs., by Martin L. Blatt, Esq.,
 Attorneys for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent whereby it suspended appellant's plenary retail consumption license for a period of ten days effective July 11, 1966. Appellant was found guilty in disciplinary proceedings on a charge that on May 21, 1966 it sold alcoholic beverages at its licensed premises to an eighteen-year-old minor in violation of Rule 1 of State Regulation No. 20. The licensed premises are located at 2 and 4 Broadway, Somers Point.

Upon the filing of the appeal an order was entered on July 14, 1966 staying respondent's order of suspension until further order of the Director.

Appellant in its petition of appeal contends that:

"...There was no basis for the suspension in that the testimony produced was not in accordance with the case law and Statutes and the Rules of the Division requiring the State to prove its charge by a preponderance believable testimony."

Respondent's answer avers that the facts upon which a finding of guilt was made were based upon the testimony and written statements produced at the hearing.

The appeal herein was heard de novo pursuant to Rule 6 of State Regulation No. 15. Ample opportunity was afforded to the attorneys for the respective parties to fully examine and cross-examine the witnesses who testified at the instant hearing.

Richard E. Schutz (a police sergeant employed by the City of Linwood) testified that "around eleven o'clock", while checking cars in the parking lot at the high school where a dance was in progress, he noticed a car around which were "a lot of cans and debris" and also "beer cans;" that, upon inspection, he found the car to be occupied by five persons (three boys and two girls) and, when he put his head into the front window of the car, he "smelled beer" and "alcoholic beverages;" that, as a result of questioning the boys, they said that "two six-packs of Schmidt's beer" were purchased at appellant's premises; that he took the boys (the two girls having left the car) to police headquarters and, after questioning them individually, notified the Division of Alcoholic Beverage Control; that an appointment was made for an ABC agent to appear at 6 p.m. on May 26, 1966 at the Linwood City Hall, when the three boys would be present; that, in accordance with the aforementioned arrangements, the ABC agent and the three boys appeared at the appointed time and were questioned by the agent. Sergeant Schutz further testified that he did not find any beer in the boys' possession or in the car and, although he saw "glass from broken bottles" among the debris nearby, he could not truthfully say that he observed any bottles of beer there. Sergeant Schutz also stated that he had no recollection of ever promising the boys that no complaint would be made against them.

George --- testified that on May 21, 1966 (when eighteen years of age), William --- drove him and Lee --- to appellant's licensed premises where he (George) purchased two six-packs of twelve-ounce bottles of Schmidt's beer which were placed in a bag by the bartender who charged \$2 therefor; that he and his companions drove to a wooded area in or near Somers Point where the twelve bottles of beer were consumed by him, his two companions and some other friends who he met there; that, after spending some time in the woods, he and other friends went to the dance at the high school; that thereafter, as he and Lee were seated in a car with two girls, Sergeant Schutz asked them if they had been drinking and he (George) answered that they had; that Sergeant Schutz took Lee and him to the City Hall and William came in later; that on May 27, 1966, when he (George) was asked to identify the person who on May 21, 1966 sold him the beer, he at first could not do so but, when he entered the car and then watched William Maenner walk away, he was certain that William Maenner was the man who waited on him.

George, when asked by appellant's attorney why he was not so sure at first that William Maenner served him, answered "Because I want to make sure. I wanted to make positive identification. I wanted to think about it and I had to visualize what he looked like that night because he was in work clothes that night and he was in a white shirt the next night. When I saw him he was in work clothes."

At the hearing herein George identified William Maenner as the person who waited on him on the night in question.

Lee --- testified that he and George were in the car which on May 21, 1966 was driven by William to appellant's premises; that George went into appellant's establishment and about five minutes thereafter came out with a brown paper bag in which were two six-packs of Schmidt's bottled beer; that they drove to a wooded area in Linwood where "I consumed three twelve-ounce bottles of Schmidt's" which he had obtained from George; that, after Sergeant Schutz arrived, he (Lee) was driven to City Hall in a police car; that, although on May 26, 1966 he directed Agent D to appellant's premises which he identified as the place where George obtained the beer, he did not go back

to appellant's establishment on May 27.

William --- testified that he drove the car occupied by George and Lee to appellant's premises and thereafter drove to a wooded area where he consumed three bottles of beer; that he left his car and drove with another to the high school parking lot.

Agent D testified that, as a result of a telephone call from the Linwood Police Department, he questioned William, George and Lee on May 26, 1966 relative to the purchase of beer on May 21, 1966 at appellant's licensed premises; that he obtained statements from the three boys and thereafter, at their direction, drove his car to appellant's premises which they identified as the tavern where the purchase of beer was made; that he alone entered the place and Joseph Maenner told him that his brother William was on duty as bartender on May 21, 1966; that, when William Maenner was not available for questioning, he (Agent D) made an appointment to see William Maenner on the following day; that George, when confronted by William Maenner, was not sure whether he was the person who sold him the beer.

William Maenner testified that he was the only person tending bar at appellant's premises on the night of May 21, 1966 and that he had never seen George before May 27, 1966 when George accompanied Agent D to the licensed premises; that he (George) "looked at me and sort of shook his head, and he said, 'No, I don't know.'"

Joseph Maenner, an officer of appellant, testified that on May 27, 1966, when George was asked if William Maenner had served him, he (George) said, "I don't know," and, furthermore, George stated that he was uncertain if the appellant's establishment was the place where the beer had been obtained.

At the hearing herein appellant's attorney placed emphasis on the fact that statements taken by Agent D from the three boys showed a correction in the date when the statements were alleged to have been taken and that the place in the jurat disclosed Linwood when actually the statements were signed at Somers Point. Also, that the contents of the respective statements given by the three boys in question were not actually sworn to before each signed his statement. Assuming this to be true, the statement of each boy relates that they visited on May 21, 1966 appellant's licensed premises and that George entered the said tavern and returned to the car with a bag containing two six-packs of beer.

At the instant hearing George identified William Maenner as the person who had sold him the beer in question. The testimony of William (who accompanied him and Lee, but who remained in the car) was to the effect that George entered the appellant's premises empty-handed and shortly thereafter emerged therefrom carrying a brown bag which contained two six-packs of Schmidt's beer.

Although there may appear to be some uncertainty as to the identity of the person who made the sale of beer to George, it has consistently been held that such failure is not fatal in disciplinary proceedings provided that there is sufficient evidence to establish that the minor purchased the beer in the licensed premises. Re Kurinsky and Ancel, Bulletin 1100, Item 7; Re Dante, Bulletin 771, Item 9; Ott's Incorporated v. Division of Alcoholic Beverage Control (App.Div.), decided March 29, 1962, not officially reported, reprinted in Bulletin 1444, Item 1.

It is the function of an administrative agency to weigh the evidence, to determine the credibility of witnesses, to draw inferences and conclusions from the evidence, and to resolve conflicts therein. Cf. Hornauer v. Div. of Alcoholic Beverage Control, 40 N.J. Super. 501 (1956). The testimony of the three youths as to what occurred on the night in question appeared truthful in every respect, and all were in agreement that the beer was purchased at appellant's licensed premises. After careful examination of their testimony, I find as a fact that George was in appellant's premises on May 21, 1966 and was sold two six-packs of Schmidt's beer by William Maenner.

The testimony of William Maenner, that he was the sole person on duty in the tavern but had not seen George in the place, was merely negative in character. Joseph Maenner's testimony could not throw any light in the matter because he was not present on May 21, 1966.

The Director should not reverse the determination of the respondent in the absence of a clear indication of abuse of discretion or unwarranted finding of fact or mistakes of law upon the part of respondent. Cf. Abad v. Newark, Bulletin 619, Item 8.

It appears that three of the ten days of the suspension imposed by respondent were served by appellant prior to the entry of a stay of the suspension by the Director.

Under the circumstances in the instant case, and after a thorough review of the evidence presented and consideration of the background of the appeal advanced by appellant, it is recommended that an order be entered affirming the action of respondent, fixing the effective date of the seven-day balance of the suspension still to be served, and dismissing the appeal filed herein.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

After carefully considering the record, including the transcript, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 14th day of March 1967,

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

ORDERED that Plenary Retail Consumption License C-16, issued by the Common Council of the City of Somers Point to Joseph I. Maenner & Sons, Inc., t/a Maenner's Cafe, for premises 2 and 4 Broadway, Somers Point, be and the same is hereby suspended for seven (7) days, commencing at 3 a.m. Tuesday, March 21, 1967, and terminating at 3 a.m. Tuesday, March 28, 1967.

JOSEPH P. LORDI
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - ORDER IMPOSING DEFERRED SUSPENSION.

In the Matter of Disciplinary Proceedings against)

SABAR, INC.)
t/a Penguin Club)
933 Atlantic Avenue)
Atlantic City, N. J.)

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-192, issued by the Board of Commissioners of the City of Atlantic City.)

Edwin H. Helfant, Esq., and Sherman L. Kendis, Esq., Co-counsel, Attorneys for Licensee.

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

BY THE DIRECTOR:

On March 7, 1967, I entered an order herein suspending the license for ninety days for permitting female entertainers to accept drinks at the expense of male patrons, and deferring the effective date of the suspension because it appeared that the licensed business was not then being conducted. Re Sabar, Inc., Bulletin 1729, Item 3.

Report of recent inspection discloses that the licensed business is now being conducted. Consequently, I am satisfied that the deferred suspension may now be imposed.

Accordingly, it is, on this 23d day of March, 1967,

ORDERED that Plenary Retail Consumption License C-192, issued by the Board of Commissioners of the City of Atlantic City to Sabar, Inc., t/a Penguin Club, for premises 933 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for ninety (90) days, commencing at 7:00 a.m. Tuesday, March 28, 1967, and terminating at 7:00 a.m. Monday, June 26, 1967.

JOSEPH P. LORDI
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ORDER IMPOSING DEFERRED SUSPENSION.

In the Matter of Disciplinary Proceedings against)

MARY MORRIN AND THOMAS MORRIN)
t/a EDDIE'S SHAMROCK CAFE)
221-229 S. Kentucky Avenue)
Atlantic City, N. J.)

SUPPLEMENTAL ORDER

Holders of Plenary Retail Consumption License C-151, issued by the Board of Commissioners of the City of Atlantic City.)

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

BY THE DIRECTOR:

On October 17, 1966, I entered an order herein suspending the license for one hundred five days for permitting apparent homosexuals on the licensed premises, sale to minors, permitting a bartender to work while intoxicated, employing a minor without permit, and employing a minor as a bartender, and deferring the effective date of the suspension because it appeared that the licensed business was about to be discontinued for the winter season. Re Morrin, Bulletin 1705, Item 3.

Report of recent inspection discloses that the licensed business has been resumed and is now being conducted. Consequently, I am satisfied that the deferred suspension may now be imposed.

Accordingly, it is, on this 28th day of March, 1967,

ORDERED that Plenary Retail Consumption License C-151, issued by the Board of Commissioners of the City of Atlantic City to Mary Morrin and Thomas Morrin, t/a Eddie's Shamrock Cafe, for premises 221-229 S. Kentucky Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1967, commencing at 7:00 a.m. Friday, March 31, 1967; and it is further

ORDERED that any renewal licensed that may be granted shall be and the same is hereby suspended until 7:00 a.m. Friday, July 14, 1967.

JOSEPH P. LORDI
DIRECTOR

5. STATE REGULATIONS - REGULATION NO. 34, RULE 11 - SALE BY MANUFACTURERS AND WHOLESALERS TO RETAILERS BELOW COST CONSTITUTES PROHIBITED THING OF VALUE OR INDUCEMENT - HEREIN OF COMPONENTS OF COST.

March 22, 1967

TO ALL LICENSEES PRIVILEGED TO SELL ALCOHOLIC BEVERAGES, OTHER THAN MALT ALCOHOLIC BEVERAGES, TO RETAILERS (V, VL, S, SL, R, W, WL AND WW):

Recently, it has come to my attention that manufacturers and wholesalers may have delivered alcoholic beverages to retailers below cost or at acquisition cost plus a nominal handling charge.

Rule 11 of State Regulation No. 34 provides, in part, as follows:

"No manufacturer or wholesaler of alcoholic beverages, other than malt alcoholic beverages, shall furnish or offer to furnish, directly or indirectly, to any wholesaler or retailer, and no wholesaler or retailer shall accept or offer to accept directly or indirectly from any manufacturer or wholesaler, any gift, rebate, or allowance of money or any thing of value (whether by sale, loan, gift or otherwise) or other discount or inducement, including free goods, deals, combination sales, and similar merchandising devices...."

I am convinced that a licensee who delivers any alcoholic beverages to a retailer for less than cost is furnishing a thing of value, or inducement to the retailer, in violation of Rule 11 of State Regulation No. 34, thereby subjecting his license (and possibly the retailer's license) to suspension or revocation. While actual cost may be the subject of proof in a particular case, it would appear that certain items, including at the least, acquisition costs, warehousing, salesmen's commissions, permissible discounts and delivery charges, must be included when computing cost. In this connection, the notice of May 7, 1958, reprinted in Bulletin 1222, Item 1, dealing with exclusive brand and private label brands of alcoholic beverages is hereby superseded.

Licensees are hereby advised that sales below cost, as above described, may in the future result in disciplinary action against their licenses.

JOSEPH P. LORDI
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

BIRCHWOOD MANOR, INC.)
t/a Birchwood Manor)
111 No. Jefferson Road)
Hanover Township, PO Whippany, N.J.)

CONCLUSIONS
AND ORDER

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

Licensee by Michael Marino, Jr., President, Pro se.
Philip Margulies, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
January 5, 1967, it possessed alcoholic beverages in two bottles
bearing labels which did not truly describe their contents, in
violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for
fifteen days with remission of five days for plea entered,
leaving a net suspension of ten days. Re Hawrylak, Bulletin
1704, Item 8.

Accordingly, it is, on this 15th day of March, 1967,

ORDERED that the Plenary Retail Consumption License
C-10 issued by the Township Committee of Hanover Township to
Birchwood Manor, Inc., t/a Birchwood Manor, for premises 111
No. Jefferson Road, Hanover Township, PO Whippany, N. J. be
and the same is hereby suspended for ten (10) days, commencing
at 2:00 a.m. Monday, March 20, 1967, and terminating at 2:00
a.m. Thursday, March 30, 1967.

JOSEPH P. LORDI
DIRECTOR

7. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1966 to MARCH 31, 1967 AS REPORTED TO THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19 (INCLUDING 57 ISSUED BY THE DIRECTOR PURSUANT TO R.S. 33:1-20)

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Licenses Expired	Licenses Surrendered/Revoked	Number Licenses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid				
Atlantic	485	\$ 207,610.00	74	\$ 27,775.00	31	\$ 2,745.00							590	\$ 238,130.00
Bergen	818	356,601.40	300	92,754.00	157	14,210.30	48	\$ 2,269.50	5	\$ 1,398.75	5		1323	467,233.95
Burlington	197	91,204.20	43	15,382.52	53	7,216.67	1	50.00					294	113,853.39
Camden	458	226,398.49	86	37,185.00	82	8,110.00			1	450.00	1		626	272,143.49
Cape May	139	78,400.00	13	4,700.00	18	2,220.00							170	85,320.00
Cumberland	80	40,995.89	15	4,200.00	32	4,250.00							127	49,445.89
Essex	1279	731,264.93	346	210,600.00	96	13,075.00	24	1,200.00	2	1,500.00	1	1	1745	957,639.93
Gloucester	109	39,710.00	15	3,870.00	24	2,195.00							148	45,775.00
Hudson	1446	654,606.58	297	121,900.00	78	9,184.66	60	2,550.00				1	1881	788,241.24
Hunterdon	79	31,120.00	15	8,780.00	14	1,500.00							108	41,400.00
Mercer	421	263,880.00	51	22,862.00	62	8,850.00							532	295,592.00
Middlesex	634	322,696.17	85	30,479.39	129	10,904.17	4	200.00				1	852	364,279.73
Monmouth	543	288,635.00	123	44,130.00	64	6,943.44	10	492.00	20	10,882.63	20		740	351,083.07
Morris	358	148,108.48	104	43,149.58	71	6,682.50	14	700.00	4	1,500.00	4		547	200,140.56
Ocean	197	110,658.67	51	22,512.00	45	5,087.23						1	292	138,257.90
Passaic	833	347,309.00	170	52,800.00	51	5,925.00	6	300.00					1060	406,334.00
Salem	51	20,160.00	8	1,640.00	19	1,625.00							78	23,425.00
Somerset	190	89,535.00	41	12,875.00	37	4,425.00							268	106,835.00
Sussex	165	47,165.00	21	4,310.00	13	740.00	1	50.00	1	225.00	1		200	52,490.00
Union	546	316,071.26	144	74,392.00	89	9,497.00	27	1,336.00					806	401,296.26
Warren	147	44,547.53	21	5,300.00	30	3,180.00							198	53,365.93
Total	9175	\$4,456,677.60	2023	\$841,596.49	1195	\$128,565.97	195	\$9,147.50	35	\$16,294.78	34	4*	12585	\$5,452,282.34

Essex - 1 C revoked - First Quarter
Hudson 1 C revoked - Second Quarter
Middlesex - 1 C revoked - Third Quarter
Ocean - 1 CB null & void - Third Quarter

Joseph P. Lordi
Director

April 12, 1967

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ALLIED STORES OF NEW YORK, INC.)
t/a Stern Brothers)
77 Ellison Street)
Paterson, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-335, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

Morrison, Lloyd & Griggs, Esqs., by August Shedler, Esq.,
Attorneys for Licensee.
Philip Margulies, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on October 19, 1966, it possessed 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.

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 The In-Crowd Lounge, Inc., Bulletin 1718, Item 8.

Accordingly, it is, on this 20th day of March, 1967,

ORDERED that Plenary Retail Consumption License C-335, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Allied Stores of New York, Inc., t/a Stern Brothers, for premises 77 Ellison Street, Paterson, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. Monday, March 27, 1967, and terminating at 3:00 a.m. Saturday, April 1, 1967.

JOSEPH P. LORDI
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

CASEY'S, A CORPORATION)
t/a Casey's)
93-97 Beachway)
Keansburg, New Jersey)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Keansburg)

James F. McGovern, Jr., 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 February 25, 1967, it sold a mixed drink of an alcoholic beverage to a minor, age 19, in violation of Rule 1 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 9320 Ventnor Avenue Corp., Bulletin 1697, Item 8.

Accordingly, it is, on this 20th day of March, 1967,

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Keansburg to Casey's, A Corporation, t/a Casey's, for premises 93-97 Beachway, Keansburg, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, March 27, 1967, and terminating at 2:00 a.m. Thursday, April 6, 1967.

JOSEPH P. LORDI
DIRECTOR

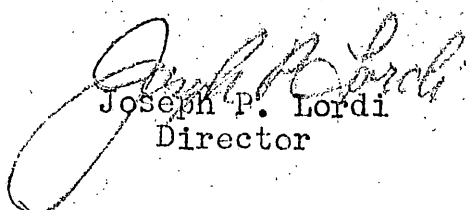
11. STATE LICENSES - NEW APPLICATIONS FILED.

Affiliated Distillers Brands Corp.
1290 Avenue of the Americas
New York, New York

Application filed May 10, 1967 for place-to-place transfer of licensed salesroom of Plenary Wholesale License W-41, from Rooms 1910-11, 744 Broad Street, Newark, New Jersey to Rooms 707-9, 744 Broad Street, Newark, New Jersey

Seaside Beer & Soda Distributors
40 Route 35
Neptune, New Jersey

Application filed May 10, 1967 for person-to-person and place-to-place transfer of State Beverage Distributor's License SBD-103 from Nicholson's Beverages, rear 1405 Kuser Road, Hamilton Township, PO Trenton, New Jersey



Joseph P. Lordi
Director