

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

February 11, 1957

BULLETIN 1150

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1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES  
(FEMALE IMPERSONATORS - OBSCENE LANGUAGE AND CONDUCT) -  
PRIOR RECORD - LICENSE SUSPENDED FOR 110 DAYS.

In the Matter of Disciplinary )  
Proceedings against )  
AGNES TORETCH & HARRY TORETCH )  
T/a TORCH'S LODGE BAR )  
1340 White Horse Pike )  
Galloway Township )  
PO RD Absecon, N. J., )  
CONCLUSIONS  
AND ORDER  
Holders of Plenary Retail Consump- )  
tion License C-25, issued by the )  
Township Committee of the Township )  
of Galloway. )  
-----)

Edwin H. Helfant, Esq., Attorney for Defendant-licensees.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following  
charge:

"On June 9, 16 and 23, 1956, you allowed, permitted  
and suffered your licensed place of business to be con-  
ducted in such manner as to become a nuisance in that you  
allowed, permitted and suffered male and female imper-  
sonators and persons who appeared to be homosexuals in  
and upon your licensed premises; allowed, permitted and  
suffered such persons to frequent and congregate in and  
upon your licensed premises; allowed, permitted and suf-  
fered lewdness and immoral activity and foul, filthy and  
obscene language and conduct in and upon your licensed  
premises; and otherwise conducted your place of business  
in a manner offensive to common decency and public morals;  
in violation of Rule 5 of State Regulations No. 20."

The file herein discloses that ABC agents visited  
defendants' licensed premises in the early mornings of June 9,  
16 and 23, 1956, and on each occasion remained in the premises  
for a considerable length of time.

On the morning of June 9, 1956, as three of the ABC  
agents entered defendants' licensed premises, a woman called  
"Donnie" (hereinafter referred to as the barmaid) was tending  
bar. She was attired in male-type trousers, white short-sleeved  
shirt, a white "T" shirt beneath the outer garment, argyle socks  
and loafer shoes, with no facial feminine make-up or jewelry,  
and her hair was closely cropped and combed in a masculine  
manner. At the time the aforementioned agents entered the prem-  
ises there were approximately twelve male and female patrons in  
the establishment. At about 3:15 a.m. three males, displaying  
female characteristics such as swaying their hips when walking  
and speaking in high-pitched voices, entered defendants' prem-  
ises. As the men entered, the barmaid called them "Honey."  
The barmaid engaged in conversation with the agents, during  
which time she related an anecdote, the connotation of which  
was extremely repulsive in that it referred to sexual perversion.

On the morning of June 16, 1956, two agents again entered defendants' licensed premises and the same barmaid, attired in a similar manner as on their previous visit, was on duty at the time. There were six females in slacks, consisting of three couples, respectively, seated at the bar. One of each couples wore facial feminine make-up whereas her companion wore none. Two of the females referred to as "Dotty" and "Bobby" danced together and kissed each other on the mouth from time to time. After the dance the females in question were observed performing other indecent acts toward one another.

On the morning of June 23, 1956, when three ABC agents entered defendants' licensed premises, the same barmaid who had been seen on the prior visits was again on duty. One of the defendant-licensees was also in the premises. The majority of the females and males present by their actions and attire appeared to be either Lesbians or homosexuals, respectively. On one occasion a female removed her brassiere and waved it in full view of the barmaid and the licensee, but at no time was she reprimanded for such conduct. Moreover, she exposed her breasts and made a remark which caused the barmaid and the licensee to join in laughter with the patrons. Thereafter the barmaid came over to the agents and related several filthy stories to them. At 3:40 a.m. the agents identified themselves to both the licensee and the barmaid, but neither would give a statement as to the indecent occurrences which had taken place on the premises that morning.

Defendants have a prior adjudicated record. Effective March 20, 1952, defendants' license was suspended by the Director for twenty-five days for sale of alcoholic beverages to minors and for permitting indecent language on their premises (Re Toretch, Bulletin 929, Item 11). Again, effective November 2, 1953, defendants' license was suspended by the local issuing authority for fifteen days for sale of alcoholic beverages to minors. Under the circumstances appearing in this case, together with defendants' prior record which occurred within the past five years, a heavy penalty is warranted. I shall suspend defendants' license for one hundred ten days. (cf. Re Lloyd, Bulletin 1045, Item 7).

If the licensees value the privilege of their license, they will be well advised to avoid any further violations. In addition, all licensees should take notice that degradation and depravity, which constitute a threat to the public welfare and morals, will not be tolerated on licensed premises. Licensees who fail to heed this warning do so at their peril.

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

ORDERED that Plenary Retail Consumption License C-25, issued by the Township Committee of the Township of Galloway to Agnes Toretch & Harry Toretch, t/a Torch's Lodge Bar, for premises 1340 White Horse Pike, Galloway Township, be and the same is hereby suspended for one hundred ten (110) days, commencing at 7:00 a.m. December 13, 1956, and terminating at 7:00 a.m. April 2, 1957.

WILLIAM HOWE DAVIS  
Director.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (OBSCENE LANGUAGE AND CONDUCT - MAKING ARRANGEMENTS FOR SEXUAL PERVERSION) - PERMITTING THE SALE OF PROPHYLACTIC DEVICES ON LICENSED PREMISES - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

GEORGE ZARE )  
T/a ZARO'S BAR & GRILL )  
249 Avenue E )  
Bayonne, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-106, issued by the Board of Commissioners of the City of Bayonne. )

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Sidney Simandl, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded nolle contendere to the following charges:

"1. On August 8, 1956, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises in that you allowed, permitted and suffered a male person acting as bartender on your premises to engage and participate in foul, filthy and obscene language and conduct and to solicit and make overtures for and arrangements with male patrons for acts of perverted sexual relations; in violation of Rule 5 of State Regulations No. 20.

"2. On August 8, 1956, you allowed, permitted and suffered the sale and distribution of prophylactics against venereal disease and contraceptive and contraceptive devices in and upon your licensed premises; in violation of Rule 9 of State Regulations No. 20."

The file herein discloses that on August 8, 1956 at about 1:00 p.m., three ABC agents were seated at the bar of the licensed premises where they saw a male bartender on duty serving five male patrons, one of which was a sailor. Immediately after their arrival, the attention of the agents was attracted to the effeminate manner in which the bartender deported himself. They observed that his gestures, speech, gait and carriage were typical of those found in the opposite sex. Subsequent thereto, a peddler carrying a black suitcase entered the premises. One of the agents, at the suggestion of the bartender and in his presence, asked this individual if he were selling prophylactics. The inquiry resulted in a sale of a dozen prophylactics to each of two agents who paid \$1.00 per dozen. The licensee was not present at the time.

Thereafter in a conversation which ensued between the bartender and the agents, the bartender made unmistakable suggestions, by words and otherwise, of his depraved desire to engage one of the agents in an act of sexual perversion. The bartender repeatedly solicited one of the agents to engage in unnatural sexual intercourse with him in the basement of the premises at

2:00 p.m., which was the hour the licensee would take over his duties as bartender. At about 2:15 p.m., the licensee relieved the bartender who then took a seat at the bar where he continued his unnatural overtures. Whether or not the licensee heard the conversation is not clear although it is admitted by the agents that he did not participate therein. In the meantime the licensee had served the bartender and the agents with some drinks, one round of which was bought by the bartender.

Shortly before the departure of the agents, the aforementioned sailor and the bartender had a short conversation at the end of which the bartender stated that he would first attend to the sailor with whom he, on a prior occasion, had indulged in sexual perversion. The agents left the premises at about 2:45 p.m.

In mitigation of penalty, counsel for defendant submitted, together with two of his own statements, five character letters, a statement by defendant, a statement by the bartender and the report of a psychiatrist who examined the bartender, all of which I have read with great care. Defendant alleges that he had no knowledge that the bartender might be a homosexual. The bartender stated that he is not a homosexual; that he served in the armed forces of the United States for two years and received an honorable discharge and that he is presently on the inactive reserve list. The psychiatrist reports that he examined the bartender and that "it is my firm opinion that this man is not suffering from any homosexuality".

While it is possible that the bartender merely was "baiting" the agent with no thought of consummating the acts of perversion in question, nevertheless such conduct and conversation by an employee or licensee on licensed premises will not be tolerated. Regardless of the bartender's character (and I have given consideration to the letters referred to) defendant is guilty as charged.

The facts as to Charge 1 disclose a more serious violation than that set forth in Re Weiner, Bulletin 1087, Item 7, because the licensee was present during part of the time the violation was permitted. It also appears that the bartender, a relative of the licensee, "fills in" (without pay) on occasions, possibly once a week, and is regularly employed elsewhere. As to Charge 2 it appears that the violation is an isolated instance. There is no evidence that the licensed premises are used as a haven for deviates or persons of low morality.

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

Accordingly, it is, on this 17th day of December, 1956,

ORDERED that Plenary Retail Consumption License C-106, issued by the Board of Commissioners of the City of Bayonne to George Zare, t/a Zaro's Bar & Grill, 249 Avenue E, Bayonne, be and the same is hereby suspended for a period of thirty-five (35) days, commencing at 2:00 a.m. January 7, 1957, and terminating at 2:00 a.m. February 11, 1957.

WILLIAM HOWE DAVIS  
Director.

3. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALES TO NON-MEMBERS - LOTTERY - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
 HOBOKEN POST #107, THE AMERICAN LEGION  
 1229 Willow Avenue  
 Hoboken, N. J.,  
 Holder of Club License CB-260, issued by the Director of the Division of Alcoholic Beverage Control.

CONCLUSIONS AND ORDER

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 Joseph P. Hanrahan, Esq., Attorney for Defendant-licensee.  
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On September 20, 1956, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to persons not bona fide members of your club or bona fide guests of any such members; in violation of Rule 8 of State Regulations No. 7.

"2. On September 20, 1956, you possessed, had custody of and allowed, permitted and suffered tickets and participation rights in two lotteries, viz., a so-called '50-50 club' and a so-called 'raffle', in and upon your licensed premises; in violation of Rule 6 of State Regulations No. 20."

The file herein discloses that on September 20, 1956 at about 1:15 p.m., an ABC agent entered the defendant's licensed club and took a seat at the bar where he ordered and consumed a glass of beer. He was served by Frederick Albert Alvarez, the custodian of the premises who was acting as bartender. Ten minutes later the aforesaid agent was joined by another ABC agent. Thereafter both agents ordered and consumed several glasses of beer and a "shot" of whiskey likewise served by the aforesaid bartender. The bartender, who is also a member of the club, did not inquire of the agents if they were members or bona fide guests of members of said club. At about 2:00 p.m., the agents, non-members, identified themselves to the bartender and informed him of the unlawful sales of alcoholic beverages.

In the course of their investigation of the premises, the agents found nine lottery tickets on the back bar next to the cash register. These tickets sell for \$1.00 each and give the purchaser the right to participate in a drawing commonly known as "50-50 club". In addition, the agents found four books of raffle tickets together with a one dollar bill in a glass behind the cash register. Each of these books contained a number of chances which would, upon the payment of 25¢ per chance, permit the purchaser participation in a drawing for a television set. One of these books indicated that four such chances had been sold to Walter - AML 107.

In a sworn statement dated September 20, 1956, Alvarez says he is employed as custodian of the licensed premises by the

defendant; that he served the two ABC agents with the alcoholic beverages as aforementioned; that he did not ask the agents if they were members of the club nor could he account for the aforesaid lottery tickets being on the premises.

In mitigation of penalty, counsel for the defendant has submitted a memorandum setting forth therein, amongst other things, the noble purposes for which the defendant organization has been formed and the many good deeds it has effected, also that the proceeds from the sale of the tickets were devoted to charitable purposes. I have given due consideration to counsel's appeal and I am, nevertheless, constrained to impose the penalties heretofore fixed in cases of a similar nature.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of fifteen days on Charge 1, Re Orange Lodge #135, B.P.O. Elks, Bulletin 1127, Item 5, and for an additional ten days on Charge 2, 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 6th day of December, 1956,

ORDERED that Club License CB-260, issued by the Director of the Division of Alcoholic Beverage Control to Hoboken Post #107, The American Legion, 1229 Willow Avenue, Hoboken, be and the same is hereby suspended for twenty (20) days, commencing 12 o'clock noon, December 16, 1956, and terminating 12 o'clock noon, January 5, 1957.

WILLIAM HOWE DAVIS  
Director.

- 4. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS DURING PROHIBITED HOURS - SALE DURING PROHIBITED HOURS - FAILURE TO REMOVE OBSTRUCTIONS SO AS TO PERMIT CLEAR VIEW OF THE BAR DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
MICHAEL KUSY and ANDREW DRAG  
354 Grove Street  
Jersey City 2, N. J.,  
Holders of Plenary Retail Consumption License C-318, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS  
AND ORDER

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Michael Kusy and Andrew Drag, Defendant-licensees, Pro se.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded guilty to the following charges:

"1. On Sunday, November 4, 1956 between 12 o'clock noon and 12:40 p.m., you conducted your licensed business; in violation of Section 4 of Ordinance K-1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950.

"2. On the occasion aforesaid you failed to remove all shades, screens and other obstacles so as to permit a clear view of the bar inside your licensed premises; in violation of Section 4 of Ordinance K-1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950."

The file herein discloses that on Sunday, November 4, 1956 at about 12:20 p.m., Michael Kusy, one of the defendant-licensees herein, admitted an ABC agent into the licensed premises through a side entrance. The agent observed seven patrons at the bar with drinks in front of them. Within a few minutes thereafter, Mr. Kusy, acting as bartender, served the agent with a shot of whiskey and a glass of beer for which the agent paid 45¢. Five minutes later, the agent repeated his order. At about 12:40 p.m., a second ABC agent was admitted into the premises through aforesaid side entrance by Andrew Drag, the other defendant-licensee herein. The bartender then served each agent with alcoholic beverages and accepted 90¢ in payment thereof. During their visit the agents saw the bartender serve alcoholic beverages to two patrons.

The front of the licensed premises has three windows, one in a door leading into the tavern and one on either side of the door. The views through said windows were obstructed by either cloth curtains, wooden partitions, venetian blinds, the construction of the windows or by a combination of the same. The agents were thus unable to observe any of the activities on the licensed premises.

The local regulations prohibits the conduct of the licensed business between 2:00 a.m. and 1:00 p.m. on Sundays, prohibits persons other than the licensee and his actual employees and agents to be in and upon the licensed premises between such hours, and requires the removal of all shades and screens and other obstructions so as to permit a clear view of the bar inside the licensed premises during such hours.

Defendants have no prior adjudicated record. I shall suspend defendants' license for twenty days on the charges herein. Re Russian American Regular Democratic Club, Inc., Bulletin 975, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 18th day of December, 1956,

ORDERED that Plenary Retail Consumption License C-318, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Michael Kusy and Andrew Drag, 354 Grove Street, Jersey City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. January 8, 1957, and terminating at 2:00 a.m. January 23, 1957.

WILLIAM HOWE DAVIS  
Director.

5. DISCIPLINARY PROCEEDINGS - FAILURE TO FILE NOTICE OF CHANGE IN FACTS IN VIOLATION OF R. S. 33:1-34 - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF A LICENSE - ILLEGAL ARRANGEMENT APPARENTLY ENDED - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against )

BOBILU CLUB, INC. )  
T/a WEST END CASINO )  
717 Ocean Avenue )  
Long Branch, N. J., )

CONCLUSIONS AND ORDER

Holder of Seasonal Retail Consumption License CS-2, issued by the Board of Commissioners of the City of Long Branch. )

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Bobilu Club, Inc., Defendant-licensee, by Louis Haas, President.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant herein has pleaded non vult to the following charges:

"1. You failed to file with the Board of Commissioners of Long Branch, within 10 days after the occurrence thereof, written notice of change in fact set forth in answer to Question 31 of your license application dated May 14, 1956, upon which you obtained your current seasonal retail consumption license, such change being that on or about June 9, 1956, you agreed to pay Jerry DeMeola and Mario DeMeola all of the profits or income from your licensed business after payment to you of a fixed fee; your failure to file such notice being in violation of R. S. 33:1-34.

"2. From about June 22, 1956 until the present time, you knowingly aided and abetted Jerry DeMeola and Mario DeMeola to exercise, contrary to R. S. 33:1-26, the rights and privileges of your seasonal retail consumption license; thereby yourself violating R. S. 33:1-52."

An examination of the file in the instant case discloses that on May 29, 1956, the license in question was issued to the defendant herein by the local issuing authority. On June 9, 1956, the defendant entered into a written agreement with Jerry and Mario DeMeola which provided that for a stipulated sum of money to be paid by the DeMeolas, the defendant agreed to transfer to them its alcoholic beverage license and the privilege of using the front bar, Emerald Room, and adjoining kitchen in the licensed premises. The DeMeolas operated the licensed business thereafter for their own private gain.

It is clear that the defendant, pursuant to the agreement, permitted the DeMeolas to conduct the licensed business as their own under the color and guise of its license.

A licensee who deliberately constitutes itself an extra-legal issuing authority by farming out its license to others for the financial gain of itself perpetrates a serious fraud upon the State and thus strikes at the very root of the liquor licensing system. Re Business Men's Associates, Inc., Bulletin

348, Item 6. Moreover, defendant's license was improvidently issued in that William Haas, secretary of defendant corporate-licensee and holder of 50% of its stock, was a resident of New York. R. S. 33:1-25. The correct address of William Haas, however, was set forth in the application for license. No fraud, therefore, appears to have been practiced upon the local issuing authority at the time the license was issued to defendant. The license in question has already expired and, therefore, the rule to show cause why said license should not be cancelled will be discharged. If and when defendant makes application for a renewal thereof, it is the duty of the local issuing authority to see that the applicant complies with all statutory requirements.

The "farming out" of defendant's license and its failure to notify the issuing authority of the factual change from the data contained in its application filed in the matter calls for a substantial penalty.

Defendant has no prior adjudicated record. Under the circumstances, I shall suspend defendant's license for a period of twenty days. Re Cedar Hill Country Club, Bulletin 848, Item 6.

Defendant held a seasonal retail consumption license which expired November 1, 1956. Defendant's business thereunder is conducted on a seasonal basis and the premises are now closed. Thus, no effective penalty can be imposed at the present time. Cf. Re The Aloha, Inc., Bulletin 998, Item 4. The effective dates for the suspension will be fixed by a further order which will be entered by me if any license is issued to this defendant or to any other person for the premises in question and after the licensed premises shall have been opened for business for the 1957 season.

Accordingly, it is, on this 10th day of December, 1956,

ORDERED that Seasonal Retail Consumption License CS-2, issued by the Board of Commissioners of the City of Long Branch to Bobilu Club, Inc., t/a West End Casino, 717 Ocean Avenue, Long Branch, or any license issued in renewal thereof, be and the same is hereby suspended for a period of twenty days. A further order fixing the period of suspension will be entered if and when the defendant, or any other person, resumes business after obtaining a renewal of said seasonal retail consumption license for the period commencing May 1, 1957.

WILLIAM HOWE DAVIS  
Director.

6. DISCIPLINARY PROCEEDINGS - SALE AT PREMISES OTHER THAN LICENSED PREMISES - LICENSE SUSPENDED FOR 15 DAYS.

SEIZURE - FORFEITURE PROCEEDINGS - ALCOHOLIC BEVERAGES STORED IN UNLICENSED MOTOR VEHICLE AND INTENDED FOR SALE - ALCOHOLIC BEVERAGES AND CASH ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO OWNERS BECAUSE OF DOUBT THAT VIOLATION WAS DELIBERATE.

In the Matter of Disciplinary Proceedings against ANDREW TUCCARONE and LEONARD TUCCARONE T/a OLDE PICADILLY North Side of Valley Rd. Passaic Township PO Stirling, N. J., Holders of Plenary Retail Consumption License C-5, issued by the Township Committee of the Township of Passaic.

ON HEARING

CONCLUSIONS AND ORDER

Case No. 9286. In the Matter of the Seizure on August 30, 1956 of 58 12-ounce cans of beer and a DeSoto sedan at the corner of Stone & Jefferson Streets, in the City of Rahway, County of Union and State of New Jersey.

Joseph A. Pennica, Esq., Attorney for Defendant-licensees and Eva Tucciarone. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

These cases involve the same facts, hence, may be decided together.

Defendant-licensees, who hold a plenary retail consumption license for premises located in the Township of Passaic, entered their plea of non vult at the hearing herein to a charge alleging that Leonard Tucciarone, one of the licensees, sold alcoholic beverages and stored alcoholic beverages with intent to sell, at a location in Rahway, New Jersey, without authority of any license, or special permit, contrary to R. S. 33:1-2, in violation of R. S. 33:1-50(b).

The facts, briefly stated, are that Leonard Tucciarone, in addition to being one of the licensees, was employed as a shop steward on a construction job in Rahway and transported beer in a DeSoto sedan registered in the name of Eva Tucciarone, his wife, to the construction job, and there sold the beer to his fellow employees.

I shall consider the offense of a character similar to where a licensee is not familiar with the limits of his license rather than where a licensee deliberately engages in "speakeasy" tactics. The defendants do not have any prior adjudicated record. I shall suspend their license for a period of fifteen days. Re Kaczyckij, Bulletin 1116, Item 11.

Contemporaneous with the disciplinary proceedings, seizure proceedings were instituted pursuant to R. S. 33:1-66 to determine whether the DeSoto sedan, 58 cans of beer and \$2.00 in cash, should be forfeited.

Leonard Tucciarone and Eva Tucciarone request return of the motor vehicle but do not oppose forfeiture of the beer or cash. It was stipulated that the facts in the file should be considered by the Director in deciding such application.

It appears therefrom that ABC agents observed Leonard Tucciarone sell beer to his fellow workers on a number of occasions, personally purchased beer from him on two or three occasions, including August 30, 1956, on which date they disclosed their identity and seized beer in a wooden ice box, and 48 cans of beer which were in the motor vehicle parked at the premises, and recovered \$2.00 in marked money which they had paid Leonard Tucciarone for beer purchased by them from him. Leonard Tucciarone was arrested by the agents.

Ignorance of the law is no defense in criminal proceedings for violation of the Alcoholic Beverage Law, and may only mitigate but can not wholly relieve a licensee from an appropriate penalty against his license, but in seizure proceedings, the same circumstances may warrant complete remission of forfeiture. Re Seizure Case No. 7245, Bulletin 819, Item 1.

Since I have given Leonard Tucciarone the benefit of the doubt, and found that he acted in ignorance of the law rather than in deliberate violation thereof, the DeSoto sedan will be returned upon payment of the costs of its seizure and storage.

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

DETERMINED and ORDERED that if on or before the 17th day of December 1956, Leonard Tucciarone or Eva Tucciarone pay the costs incurred in the seizure and storage of the DeSoto sedan, described in Schedule "A" attached herein, such motor vehicle will be returned to either of them; and it is further

DETERMINED and ORDERED that the alcoholic beverages listed in the aforementioned Schedule "A" and \$2.00 in cash constitute unlawful property and the same be and hereby are forfeited in accordance with the provisions of R. S. 33:1-66 and that they be retained for the use of hospitals and State, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control; and it is further

ORDERED that Plenary Retail Consumption License C-5, issued by the Township Committee of the Township of Passaic to Andrew Tucciarone and Leonard Tucciarone, t/a Olde Picadilly, North Side of Valley Rd., Passaic Township, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. January 2, 1957, and terminating at 2:00 a.m. January 17, 1957.

WILLIAM HOWE DAVIS  
Director.

SCHEDULE "A"

- 58 - cans of beer
- 1 - ice box
- 1 - DeSoto sedan, Serial No. 49838, N. J. Registration UV59-J
- \$2.00 in cash

7. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING THE GRANTING OF REBATE OR DISCOUNT IN VIOLATION OF RULE 20 OF STATE REGULATIONS NO. 20, DISMISSED.

In the Matter of Disciplinary Proceedings against

ANGELO INNOCENTI  
T/a ANGELO'S WINE & LIQUOR  
5506 Hudson Boulevard  
West New York, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-66, issued by the Board of Commissioners of the Town of West New York.

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Green and Yanoff, Esqs., by H. Kermit Green, Esq., Attorneys for Defendant-licensee.

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

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant has pleaded not guilty to the following charge:

'On June 12, 1956, you directly or indirectly furnished a gift or premium in form of a 4/5 quart bottle of Angelo's Napa Valley Burgundy wine with the retail sale of a case (4 - one gallon jugs) of Boulevard 100% Pure California Burgundy Wine, an alcoholic beverage, for consumption off your licensed premises; in violation of Rule 20 of State Regulations No. 20.'

"The undisputed facts disclosed in the case herein are that on the date mentioned in the aforesaid charge, an ABC agent visited defendant's licensed premises and obtained from the defendant a case (4 - one gallon jugs) of Boulevard 100% Pure California Burgundy Wine and a 4/5 quart bottle of Angelo's Napa Valley Burgundy wine. The price of the case of wine was \$8.00 and for the 4/5 quart of Angelo's Napa Valley Burgundy wine 75¢. The agent paid \$8.00 for both items.

"The agent and the defendant, however, differed in their testimony as to the facts surrounding the transaction which culminated in the purchase of the wine. The agent testified that he talked to the defendant about the purchase of a quantity of Angelo's Napa Valley Burgundy wine and the price thereof, and defendant said, 'Well, Angelo's is \$2.25 a gallon or \$8.50 a case'; that he then asked the defendant whether he got a 'free bottle' and was told, 'No, sir'; that the defendant then said, 'I will try to give you a good deal on Boulevard Burgundy wine'; that 'I want \$2.00 a gallon for this or \$8.00 per case'; that the agent asked defendant if he got a 'free bottle' with the Boulevard wine and the defendant said, 'O.K.'; that the agent left the premises under the pretext that he was to make a telephone call to his brother to inquire about Boulevard wine; that he returned a short time thereafter and said he would take a case of the Boulevard wine; that defendant asked the agent what type of wine he wanted in addition to the Boulevard wine and after looking at the shelves, he chose a 4/5 quart of Angelo's Napa Valley Burgundy wine; that defendant placed the 4/5 quart of wine in a 'brown paper bag and passed it over the counter';

that he paid \$8.00 to defendant who went into the back room and then brought out a case of Boulevard wine (4 - 1-gallon bottles), placed it on the floor on the customer's side of the counter; that the agent picked up the case and the paper bag containing the 4/5 quart bottle and left the licensed premises; that the agent immediately returned to the premises accompanied by two other agents, one of whom questioned the defendant about the transaction; that the defendant admitted that he had charged the agent who had purchased the wine the sum of \$8.00 for the Boulevard wine and had given him a free bottle but explained that because neither brand of wine was a fair trade item, he could give a free bottle if he chose to do so.

"The two agents who entered the premises in the company of the agent who had purchased the wine, corroborated the testimony of said agent as to what the defendant stated when they returned to the premises and spoke to him about the sale of the wine. Both of these agents also testified that defendant stated that he gives a 10% discount or a free bottle with a sale of a case of Boulevard wine.

"Defendant testified that the agent asked for a case of Angelo's Napa Valley Burgundy wine and when he told him that the price was \$8.50, the agent asked whether he got a free bottle with the \$8.50 and he told the agent 'No, sir'; that the agent said that defendant had, on a previous occasion, given the agent's brother a bottle of wine in a similar transaction which he (the defendant) denied; that defendant then informed the agent that he could have Boulevard wine either by the bottle or by the case and that he would give him '10% off'; that the agent then left the premises but returned a short time later, purchased a case (4 - one-gallon bottles) of Boulevard wine and that he gave the agent a 4/5 quart bottle in lieu of the 10% discount to which he claimed the agent was entitled.

"Mario Febbraro, a witness produced by defendant, testified that he has purchased Boulevard wine from the defendant on an average of a case per month and has paid \$7.25 for a case of said wine.

"I have carefully considered the testimony of the witness in this proceeding and am satisfied that the agents' testimony accurately described what took place in defendant's licensed premises on the day in question. Since the items in question were not listed in the then current pamphlet setting forth minimum consumer resale prices, defendant could have lawfully sold the separate items at any price he wished. However, I am convinced that the defendant gave to the agent as an inducement to buy the case of Boulevard wine, a 4/5 quart bottle of Angelo's Napa Valley Burgundy wine without charge therefor and that this transaction constitutes a violation of Rule 20 of State Regulations No. 20. Cf. Re Worman, Bulletin 800, Item 7. It appears that if defendant allowed a 10% discount on the case of Boulevard wine, the price therefor would have been \$7.20 rather than \$7.25 as he claims he invariably charges for such wine. I find defendant guilty of the violation set forth in the charge preferred herein and recommend that he be found guilty thereof. Defendant has no prior adjudicated record. In view of the fact that neither item was listed in the Minimum Consumer Resale Price List pamphlet, I further recommend that defendant's license be suspended for a period of five days."

After the Hearer filed his report, the attorney for defendant, pursuant to Rule 6 of State Regulations No. 16, filed exceptions to the report, and written argument. In his argument

defendant's attorney contends that the transaction did not involve the giving of a "gift or premium" because defendant has always granted a 10% discount on case-lot purchases of Boulevard Burgundy Wine, even when that item was listed in the Minimum Consumer Resale Price List pamphlet. A review of the pamphlet effective January 1, 1955 discloses that this is true. He further contends that, because the 10% discount on the case-price was eighty cents and the price of the 4/5 quart of Angelo's wine was only seventy-five cents, there was in fact no "gift or premium." He also alleges that the Worman case is not in point because it involved the sale of cigarettes at a discount in connection with the sale of a Fair Trade item.

This is a case of novel impression. The evidence leaves me in doubt as to what was in defendant's mind at the time of sale. There is no doubt that he discussed a "free bottle" with the agent who made the purchase, but almost immediately after the sale he told the other agents that he gives a 10% discount or a free bottle with a sale of a case. A discount on this unlisted item is permissible. Under the peculiar circumstances of this case, I conclude that the Division has not sustained the burden of proof in establishing the guilt of defendant by a fair preponderance of the evidence and, hence, I shall dismiss the charge herein.

Although the charge herein is dismissed, I shall not countenance a "free bottle" as an inducement to purchase a case or any other quantity of alcoholic beverages, whether listed or unlisted. Defendant and all licensees are on notice that, where a discount on case-lots is permissible, the transaction must be confined strictly to the granting of such discount.

Accordingly, it is, on this 10th day of December, 1956,

ORDERED that the charge herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS  
Director.

8. STATE REGULATION NO. 39 - CREDIT PERIOD CHANGED - EFFECTIVE MARCH 1, 1957 DELIVERIES.

January 23, 1957

Under Rule 1 of State Regulation No. 39, retailers were required to pay for each delivery of alcoholic beverages within thirty (30) days after such delivery was received. The amended Rule requires that payment be made not later than the same date of the month following the date of delivery.

In order to permit all licensees to become familiar with the changed credit period and to permit the printing and mailing of new forms of notices by licensees selling to retailers, the new credit period will become effective beginning with deliveries made on March 1, 1957 and all subsequent deliveries. The thirty (30) day credit period will apply to all deliveries made through February 28, 1957.

WILLIAM HOWE DAVIS  
Director.

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

JAY'S BAR & GRILL, INC. )  
T/a JAY'S BAR & GRILL )  
101 Jackson Avenue )  
Jersey City 5, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-326, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

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Joseph W. Tumulty, Esq., Attorney for Defendant-licensee.  
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on September 22, 1956, it sold alcoholic beverages in original containers during prohibited hours for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that on September 22, 1956, at about 10:00 p.m., two ABC agents entered the licensed premises, took seats at the bar and observed the same to be occupied by 17 patrons.

At about 10:45 p.m., the agents heard a patron ask the bartender for twelve cans of beer "to go". The bartender thereupon took two handy packs of beer (six cans to a pack) from a cooler, placed them in a brown paper bag and deposited the package in a hallway (rear exit of premises), where he told the patron he could later get it. Shortly thereafter one of the agents asked the bartender for six cans of beer "to go". This order was filled by a patron who, on instructions from the bartender, took six cans of beer from the aforesaid cooler and wrapped them in a brown paper bag. In the meantime the bartender accepted \$1.20 in payment of the beer and informed the agents that on their way out they could pick up their package in the aforesaid hallway. Accordingly, the agents proceeded to leave by the rear exit, at which point they were given the beer by the cooperative patron. Immediately after leaving the premises, the agents returned, identified themselves to the bartender and informed him of the aforesaid violations.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Barraro and Mariano, Bulletin 1134, Item 7.

Accordingly, it is, on this 17th day of December, 1956,

ORDERED that Plenary Retail Consumption License C-326, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Jay's Bar & Grill, Inc., t/a Jay's Bar & Grill, 101 Jackson Avenue, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. January 7, 1957, and terminating at 2:00 a.m. January 17, 1957.

WILLIAM HOWE DAVIS  
Director.

10. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

YE OLDE WAGON WHEEL, INC. )  
8214 Boulevard East )  
North Bergen, New Jersey )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-64, issued by the Board of Alcoholic Beverage Control of the Township of North Bergen. )

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Wilbur L. Ross, Esq., Attorney for Defendant-Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

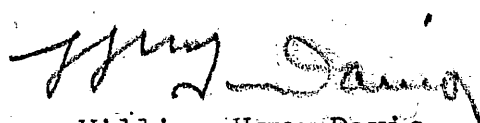
Defendant has pleaded non vult to a charge alleging that it sold alcoholic beverages at less than the price listed in the Minimum Resale Price List then in effect, in violation of Rule 5 of State Regulation No. 30.

The file herein discloses that on November 18, 1955, December 9, 1955 and May 11, 1956, the defendant herein sold to the chairman of the bar committee of an unlicensed veterans' club a total of 27 4/5-quart and 6 quart bottles of whiskey for \$163.70. The minimum resale price then in effect for the articles in question was \$179.77.

Defendant has no prior adjudicated record. Considering the circumstances surrounding the transactions, I shall suspend defendant's license for the minimum period of ten days and remit five days for the plea entered herein, leaving a net suspension of five days. Re Sudol, Bulletin 1130, Item 10.

Accordingly, it is, on this 27th day of December 1956,

ORDERED that Plenary Retail Consumption License C-64, issued by the Board of Alcoholic Beverage Control of the Township of North Bergen to Ye Olde Wagon Wheel, Inc., 8214 Boulevard East, North Bergen, be and the same is hereby suspended for a period of five (5) days, commencing 3 a.m., January 7, 1957, and terminating at 3 a.m., January 12, 1957.

  
William Howe Davis  
Director