

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

BULLETIN 1219

APRIL 28, 1958.

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1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1219

APRIL 28, 1958.

1. APPELLATE DECISIONS - BLACK v. NEWARK.

NATHAN BLACK, t/a BLACK'S,)

Appellant,)

-vs-

MUNICIPAL BOARD OF ALCOHOLIC
BEVERAGE CONTROL OF THE CITY)
OF NEWARK,)

Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

-----)
Joseph A. D'Alessio, Esq., Attorney for Appellant.
Vincent P. Torppey, Esq., by James E. Abrams, Esq. and
Jacob M. Goldberg, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby, by a two to one vote, it denied appellant's application to transfer his plenary retail consumption license from 103-105 Montgomery Street, located at the corner of Prince Street, to the diagonal corner of those streets designated as 173-175 Prince Street and 106-108 Montgomery Street, Newark.

"The petition of appeal alleges that the action of respondent was arbitrary, capricious and an unreasonable exercise of its discretionary powers because it is a 'hardship' case in that applicant is being forced to vacate his present location by the Newark Housing Authority, which intends to erect a low-cost housing project thereon; and that transfer from one corner to the other will not in any way change the nature or character of the immediate neighborhood, and will not cause a concentration of liquor outlets. The answer admits that it is a 'hardship' case but denies that the action of respondent was erroneous and alleges that its decision was based upon the factual testimony before the Board from which it concluded that a transfer should be denied.

"At the hearing herein the transcript of the proceedings below was introduced in evidence in accordance with Rule 8 of State Regulation No. 15, and additional evidence was heard. It appears from such transcript that the chairman of the respondent Board when announcing its decision stated:

'The Board, having considered and evaluated all the testimony and evidence produced by the applicant and by the objectors, it is of the opinion that the applicant has not sustained the necessary burden of proof by a preponderance of the evidence that a public necessity and convenience was served by granting this application.

'Accordingly, it is hereby ordered that the application be denied.'

"The stated ground for denial, that is, that the appellant had not established that a public necessity and convenience

would be served by granting the application, is not a valid ground for denial where, as here, the transfer is from one corner to an opposite corner of the same street intersection especially in a 'hardship' case. The mere fact that other licensees also serve the same neighborhood is not a valid reason for denial of the transfer since no increase in concentration of licenses will result from such transfer.

Re Geltzeiler v. Newark, Bulletin 1171, Item 1; cf. Re Bivona v. Hock, 5 N. J. Super. 118.

"The transfer in question appears to be in conformity with the applicable Newark 'distance' ordinance. Re Geltzeiler v. Newark, supra.

"Thus the reason advanced by the respondent in its decision at the hearing below and in its answer on appeal does not sustain a refusal to transfer the license. However, not to overlook aspects of the case which, although not advanced by respondent, may have influenced its decision, it may be well to consider what transpired at its hearing.

"The appellant testified that he had been in business at his present location for 17 years and that he has contracted to purchase the property to which he seeks transfer. Counsel for appellant stated that the new location is not nearer to a school and would be further away from a church than the present location.

"The respondent had before it a petition of protest against the transfer signed by various persons, some of whom were present at the hearing.

"Reverend Kirk testified that he was authorized to speak on behalf of the pastor of the church located at the corner of Montgomery and Charlton Streets and objected to the transfer because it would bring the licensed premises too close to the church; that they tolerated the tavern at its present location although objectionable and disgraceful language and drunken and other objectionable conduct occurred there.

"A map was presented in evidence which discloses that there is a distance of 230 feet from the proposed entrance to the new location located on Prince Street to the main entrance of the church, which is further distant than from the present location. Thereupon Reverend Kirk admitted that he was misinformed on that score. The church was formerly a theater, acquired about ten years ago, after the location of appellant's tavern, and is on the opposite side of the street from the proposed new location.

"Concerning the alleged objectionable conduct, the witness said that if the licensee controls them inside his establishment, they will come outside to the corner and use disgraceful language; that the police chase the loiterers but they come back; that the same condition exists on Broome and Spruce Streets and that such a condition exists on all of the corners in the neighborhood.

"Jackson C. Bryant, another objector, testified that he represented his wife, Reverend Pearl Bryant, who conducts religious services at 169 Prince Street within 200 feet of the proposed licensed premises. Since the transcript did not disclose the nature of the building in which such services were conducted, both Mr. Bryant and his wife, Reverend Pearl Bryant,

were notified that a hearing would be held on that score and they appeared and testified. From the evidence presented, it appears that the building is a three-story structure, a store on the first floor being occupied as church quarters and the upper two floors are occupied as living quarters by two families. This is not a church edifice and, hence, does not present a valid objection to the transfer of the license. Re Parisi v. Jersey City and Macchi, Bulletin 1201, Item 1.

"Mr. Bryant also presented his description of what he considered unseemly conduct in the area, that is, that drunken persons from the appellant's present premises presented themselves at the church and disgusting language was heard in the area.

"Mrs. Lillian Richards, who resides in the building to which transfer is sought, testified that she heard swearing and cursing and fights while in her home which the police were unable to quell; that she has been living at the above address for 14 years during which the appellant's tavern was located across the street but it was not as bad then as it is now; that the objectionable conduct of which she complains occurred in and about her building but she does not know where the persons came from; and that she is superintendent of such building (which is to be purchased by the appellant) and will probably lose her employment there if the sale is consummated.

"Mrs. Ollie Martin testified that she is superintendent of the building where Reverend Bryant conducts the religious services and voices similar objections to language and unseemly conduct in the neighborhood. She has never complained to police or to respondent about such conditions.

"The evidence presented does not establish that appellant is solely responsible for any unsavory conditions that exist in the entire area, hence, to single him out and refuse to permit him to continue to operate his business in such area on that account is unreasonable. Cf. Re Geltzeiler v. Newark, supra.

"The transfer of a liquor license to other persons or premises, or both, is not an inherent or automatic right. Therefore, the question to be decided herein is whether the action of respondent was reasonable or unreasonable under the circumstances of this case. Cf. Re Geltzeiler v. Newark, supra.

"Under the particular instances of the case as established by the evidence, I am of the opinion that the action of respondent herein was unreasonable and I recommend that an order be entered reversing the action of respondent."

No exceptions were taken to the Hearer's Report within the time limited by Rule 14 of State Regulation No. 15.

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

Accordingly, it is, on this 11th day of March, 1958,

ORDERED that the action of respondent be reversed, and respondent is ordered to transfer said license in accordance with the application filed by appellant.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (SOLICITATION FOR PROSTITUTION, INDECENT LANGUAGE AND ACTIONS, INDECENT STATUETTE) - LICENSE SUSPENDED FOR 210 DAYS.

In the Matter of Disciplinary Proceedings against)

LUCKY'S TAVERN, INC. (CORP.))
t/a LUCKY'S)
#32-34 French Street)
New Brunswick, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-79, issued by the Board of Commissioners of the City of New Brunswick.)

William K. Miller, Esq., Attorney 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 pleaded not guilty to the following charges (as amended):

'1. On October 26, 1957, you allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene conduct in and upon your licensed premises, viz., solicitation for prostitution and the making of arrangements for illicit sexual intercourse and foul, filthy, obscene, lewd, lascivious, indecent, disgusting and immoral acts, gestures and movements by a female; in violation of Rule 5 of State Regulation No. 20.

'2. On October 26, 1957, you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing an obscene, indecent, filthy, lewd, lascivious and disgusting representation, viz., a certain figure approximately 8" in height of wood and metal ostensibly in form of a cartoon character known as "Pop Eye"; in violation of Rule 17 of State Regulation No. 20.

"As to Charge 1: At the hearing held herein an ABC agent (hereinafter identified as Agent R) testified that he and two other ABC agents entered defendant's licensed premises at about 9:15 p.m. on October 26, 1957, and took seats at the bar; that at about 10:00 p.m. Dorothy --- entered the premises and, after a short time, took a seat at a table near the door; that Louis E. Carlucci (one of the bartenders) then said to the agents, 'Here's Dottie now -- anything goes with Dottie;' that, when one of the other agents asked Carlucci how much Dottie charged, the bartender replied, 'Just a couple of beers. You go over and sit down and take her right out.' Agent R further testified that he then left the bar and sat at the table with Dottie where he conversed with her for a period of about twenty minutes, during the course of which she told him that her husband wanted to be left alone so she went out to have a good time and that, during the course of this conversation, she twice grabbed him by his private parts.

Agent R further testified that, after he had returned to the bar, Dorothy came to him and said 'O.K., honey, just me and you, only five dollars -- in your car is good enough;' that shortly thereafter Carlucci said to Dorothy, 'Take good care of these boys, Dottie; they are good boys.' The testimony of Agent R further sets forth that, shortly before 11:30 p.m., he gave Dorothy five marked one-dollar bills; that one of the other agents said to Carlucci, 'It looks like Jerry scored,' to which Carlucci replied, 'Yeah, I told you;' that Dorothy left the premises and he followed her, and that they were stopped on the street by a New Brunswick police officer and another ABC agent who found the marked money in Dorothy's possession. The aforesaid testimony was substantially corroborated by one of the other ABC agents herein designated as Agent F. It was stipulated that, if the other agent (herein designated as Agent N) were called to testify, his testimony would be substantially the same on direct and cross-examination as that given by the other two agents.

"On behalf of defendant, Louis E. Carlucci testified that on October 26, 1957, he was employed in defendant's licensed premises one day a week as a part-time bartender. Referring to the statement he is alleged to have made shortly after Dorothy entered the premises, he testified that he knew she liked to dance and testified that he said 'Here comes Dottie; anything goes with Dottie' referring thereby merely to her ability as a dancer. He denies that he made any other remarks concerning Dorothy to the agents. Dorothy testified that she lives with her husband and admits that on the evening in question she entered defendant's premises where she had a couple of drinks and did a couple of jigs. She denied that she ever promised to engage in sexual intercourse with Agent R and states that he loaned her \$5.00 'until pay-day.' It appears that criminal charges against Dorothy for soliciting were subsequently dismissed in a Municipal Court. William Anklowitz, president of defendant corporation, testified that he and his wife are the beneficial owners of all the stock of the corporation; that he did not enter the licensed premises on the evening of October 26, 1957, until after 11:00 p.m.; that he was not present when the violations are alleged to have occurred, and that he does not permit any immoral activities on the licensed premises.

"As to Charge 2: Agent F testified that on the evening in question John R. Saltvedt (the other bartender then on duty) placed on the bar and manipulated an indecent figure representing 'Pop Eye' which he had taken from behind bottles on the back-bar. On behalf of defendant, John Saltvedt testified that the figure had been left at the premises by a patron a few hours before the agents arrived, and admits that he brought it out to the bar at one time and showed it 'as a joke.'

"The attorney for defendant contends that the charges should be dismissed because no officer or stockholder of the corporation was present when the alleged violations occurred. This contention is without merit. In disciplinary proceedings it is sufficient to show that the violation was committed by an agent, servant or employee of the licensee. Rule 33 of State Regulation No. 20; Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup. Ct. 1947). The attorney also alleges that the testimony of Agent R at the hearing in the Municipal Court differed from his testimony herein. An examination of the transcript of testimony given in the Municipal Court fails to disclose any

substantial difference between the testimony given by Agent R at that hearing and his testimony in this case. It is immaterial who owns the 'Pop Eye' figure which the bartender admits he displayed on the premises.

"Defendant has a prior record. Effective February 27, 1957, its license was suspended by the Director for thirty-five days for selling to minors and to women directly over the bar. Bulletin 1159, Item 4. It further appears that, when William Anklowitz held a license in his own name for another address, said license was suspended by the local issuing authority for five days beginning January 13, 1947, for an 'hours' violation and by the then Commissioner for one hundred twenty days beginning July 16, 1947, for possessing illicit liquor. Bulletin 772, Item 2. The two suspensions in 1947 were imposed more than ten years before the date alleged in the charges herein.

"After reviewing all the evidence, I conclude that the agents are telling the truth and, hence, recommend that an order be entered finding defendant guilty as charged and suspending its license for a period of two hundred ten days. Re Strauss, Bulletin 1140, Item 6."

No exceptions to the Hearer's Report were filed within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the evidence herein, I concur in and adopt the conclusions set forth in the Hearer's Report as my conclusions herein. Hence I find defendant guilty as charged and shall suspend its license for two hundred ten days.

Accordingly, it is, on this 11th day of March, 1958,

ORDERED that Plenary Retail Consumption License C-79, issued by the Board of Commissioners of the City of New Brunswick to Lucky's Tavern, Inc. (Corp.), t/a Lucky's, for premises #32-34 French Street, New Brunswick, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. March 18, 1958; and it is further

ORDERED that, if any license be issued to defendant or to any other person for the premises in question for the 1958-59 licensing year, said license shall be under suspension until 2:00 a.m. October 14, 1958.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against)

NEW BRASS RAIL, INC.)
 t/a NEW BRASS RAIL, INC.)
 280 Madison Avenue)
 Perth Amboy, N. J.,)

CONCLUSIONS AND ORDER

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

 William K. Miller, Esq., Attorney for Defendant-licensee.
 David S. Piltzer, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The defendant pleaded not guilty to the following charge:

'On June 13, 19, 25, July 19, and August 8, 1957 you engaged in and allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets, in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.'

"According to two ABC agents who were at defendant's licensed premises on June 13, 19 and 25th, and one of such agents who was there on July 19, they observed two persons -- Barney Schlossberg and Rudolph N. Lund -- engage in activities which strongly indicated that they were accepting bets on horse races from patrons in the premises. Indeed, on June 25th, one of the agents discussed with Adam R. Ziembra, then acting as bartender, the placing of such a bet with Barney on a horse race. The agent then spoke with Barney, who refused to accept such bet because he said the agent was a stranger to him and he was afraid to take a chance. Ziembra, when apprised of such refusal, remarked that he guessed that Barney was real careful. On July 19th, the agent referred to the June 25th incident and Ziembra replied that perhaps Barney did not want any new customers. Nevertheless, the evidence so presented is not of such probative force as to establish with legal certainty that horse race bets were accepted at the licensed premises on June 13, June 19, June 25 or July 19.

"However, the agents testified that on August 8th, one of them actually placed a horse race bet with Barney. Their account of the incident is as follows:

"When they entered the defendant's licensed premises, Walter Curtis was tending bar. Barney and Rudolph were present and were engaged in activities similar to those which the agents had observed on their previous visits, in that patrons from time to time accompanied either Barney or Rudolph to a rear room and then Barney or Rudolph would make telephone calls. While Rudolph was temporarily absent, the agents observed Curtis

hand a newspaper to a patron, who turned to the racing page, made notations on a slip of paper, folded some money with the slip, returned the paper to Curtis, and asked him for Rudolph's whereabouts. Curtis replied that Rudolph would return shortly.

"At about 1:15 p.m. one of the agents asked Barney if he would accept a horse race bet. After a colloquy between them concerning whether Barney knew the agent and where he had seen him, Barney accompanied the agent to the rear room, where the agent gave Barney a slip on which was written the name of a horse, and six one dollar bills (previously identified by serial numbers). Barney looked at the slip, then tore it up and threw it into a nearby garbage can and said, 'All right, the bet is in', and then made a telephone call from a booth. On his return to the bar the agent told his fellow agent and Curtis that he had just placed such bet.

"Thereupon, the other agent left the premises, and by pre-arrangement, returned with another agent and local police officers; who recovered the torn betting slip from the garbage can, and recovered the marked money which was in Barney's pocket. Rudolph had a National Racing Form on his person and other betting slips were found in the garbage can.

"The defendant-licensee does not attempt to contradict the testimony of the ABC agent that he actually placed a horse race bet with Barney on August 8th and that the slip evidencing such bet and the money used to place the bet was recovered in the premises on that day. The defendant places considerable stress on the alleged variance in details of testimony of the agent at a Magistrate's hearing and the present hearing. The agent explained at the Magistrate's hearing the court and counsel limited the scope of his testimony. In any event, any such variations are of no moment, since they concern his visits previous to August 8th, as to which I have recommended a finding of not guilty.

"The major defense, in essence, is that Ziemba and Curtis did not know of the bookmaking activities in the premises. On this score, Ziemba, principal stockholder of the corporate-licensee, and Curtis, his bartender, both admit that they knew Barney and Rudolph were reputed to be bookmakers. Ziemba admitted that he knew that Barney had a criminal conviction for that offense, and that Barney had been frequenting his licensed premises for about five years. Both Ziemba and Curtis say that they did not know what Barney and Rudolph depended on for their livelihood other than bookmaking. Both Ziemba and Curtis admitted that Barney and Rudolph spent considerable time at their premises and received and made frequent telephone calls there. They offer the naive explanation that Barney frequented the back room to bring and eat his lunch there. Ziemba claims that he believed that Rudolph and Barney engaged in their bookmaking activities in the street and not in his premises.

"It is obvious that Ziemba and Curtis knew or should have known that Barney and Rudolph were making book in the premises. While there is no evidence that they personally had an interest in such illegal activities, I am of the opinion that they countenanced such activities to the extent of furnishing patrons with a newspaper on occasion and informing such patrons of the whereabouts of the bookmakers, as testified to by the agent.

"I recommend the defendant be found guilty of the charge so far as it relates to August 8, 1957.

"The case is in many respects similar to Re Llewellyn Recreation Center, Bulletin 1146, Item 1. Defendant has no prior adjudicated record. I recommend that its license be suspended for a period of twenty-five days."

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

Having carefully considered the facts and circumstances herein, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 4th day of March, 1958,

ORDERED that Plenary Retail Consumption License C-84, issued by the Board of Commissioners of the City of Perth Amboy to New Brass Rail, Inc., t/a New Brass Rail, Inc., for premises 280 Madison Avenue, Perth Amboy, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. March 10, 1958, and terminating at 2:00 a.m. April 4, 1958.

WILLIAM HOWE DAVIS
Director.

- 4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ERNEST VARDAKIS)
2710 Hudson Boulevard)
Jersey City 6, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-75, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

Ernest Vardakis, Defendant-licensee, Pro se.
Davis S. Piltzer, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to the following charges:

"1. On Sunday, November 24, 1957, you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., a pint bottle of P.M. Blended Whiskey, at retail in its original container for consumption off your retail licensed premises and you allowed, permitted and suffered the removal of such alcoholic beverage from your retail licensed premises; in violation of Rule 1 of State Regulation No. 38.

"2. On Sunday, November 24, 1957 at about 11:25 a.m., you sold alcoholic beverages; in violation of Section 4 of an Ordinance adopted by the Jersey City Board of Commissioners on April 18, 1939."

The file herein discloses that at about 11:15 a.m., Sunday, November 24, 1957, an ABC agent entered defendant's licensed premises while another ABC agent remained outside. Two clerks were waiting on four patrons purchasing groceries. The agent purchased some bread and bologna from Solon Vardakis, one of the clerks. The agent then asked this clerk for a bottle of P. M. Blended Whiskey. Solon Vardakis then put a pint bottle of P. M. Whiskey into a bag with the bread and bologna and accepted payment for the whiskey in addition to the other items. The agent then left the premises and joined the other agent. Both agents then entered the premises and identified themselves to Ernest Vardakis, the licensee and Solon Vardakis, his son, both of whom verbally admitted the sale of the bottle of whiskey as above described.

The local ordinance prohibits the sale, service and delivery of alcoholic beverages between the hours of 2:00 a.m. and 1:00 p.m. on Sundays and State Regulation No. 38 prohibits the sale on Sundays of said beverages in original containers for off-premises consumption.

The defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days (Re Badyna, Bulletin 1203, Item 3), and remit five days for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 24th day of February, 1958,

ORDERED that Plenary Retail Distribution License D-75, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Ernest Vardakis, for premises 2710 Hudson Boulevard, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m. March 3, 1958, and terminating at 9:00 a.m. March 18, 1958.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against)
)
 S. D. PERNA & SONS, INC.)
 t/a "HAMILTON MANOR")
 W/S of Black Horse Pike)
 Hamilton Township)
 PO RD #2, Mays Landing, N. J.,)
)
 Holder of Plenary Retail Consumption License C-18, issued by the)
 Township Committee of Hamilton)
 Township.)
 -----)

CONCLUSIONS
AND ORDER

Defendant-licensee, by Sylvester D. Perna, President,
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

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

The file discloses that ABC agents entered defendant's
licensed premises on January 30, 1958, at about 11:15 p.m., to
investigate information that minors were in the premises. They
questioned James ---, who gave them a signed, sworn statement
in which he says that he is twenty years of age; that he had
entered the premises about one hour before the agents entered
and that he had been served three glasses of beer by the
president of defendant corporation and his son, who were acting
as bartenders, neither of whom questioned him as to his age.
The agents identified themselves to the president of the cor-
poration.

Defendant has no prior record. I shall suspend defend-
ant's license for ten days (the minimum suspension imposed for
sale to a twenty-year-old minor). Re Zaharick, Bulletin 1184,
Item 6. Five days will be remitted for the plea, leaving a
net suspension of five days.

Accordingly, it is, on this 19th day of February, 1958,

ORDERED that Plenary Retail Consumption License C-18,
issued by the Township Committee of Hamilton Township to S. D.
Perna & Sons, Inc., t/a "Hamilton Manor", for premises on W/S
of Black Horse Pike, Hamilton Township, be and the same is
hereby suspended for five (5) days, commencing at 4:00 a.m.
March 3, 1958, and terminating at 4:00 a.m. March 8, 1958.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALE 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)

OLDE STONE TAVERN, INC.)
120 Newark Avenue)
Jersey City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-294, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

Defendant-licensee, by Joseph Nolan, Secretary.
Dora P. Rothschild, appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

The file herein discloses that at about 1:30 a.m., Saturday, January 25, 1958, an ABC agent purchased six 12-ounce cans of Schaefer's beer from a bartender employed by defendant. The bartender placed the six cans of beer in a paper bag, handed the bag to the agent and after making payment for the beer, the agent left the premises. He returned immediately thereafter with another agent and the agents identified themselves to the bartender. The latter admitted the sale but refused to give a written statement in the matter.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Cali, Bulletin 1202, Item 9.

Accordingly, it is, on this 20th day of February, 1958,

ORDERED that Plenary Retail Consumption License C-294, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Olde Stone Tavern, Inc., for premises 120 Newark Avenue, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. February 28, 1958, and terminating at 2:00 a.m. March 10, 1958.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - POSSESSING OBSCENE AND INDECENT PICTURES AND REPRESENTATIONS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MARINER'S BAR, INC.)
t/a MARINER'S BAR AND GRILL)
279 Orange Street)
Newark 4, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-267, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Joseph A. D'Alessio, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On January 13, 1958, you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing obscene, indecent, filthy, lewd, lascivious and disgusting pictures and representations, viz., a group of photographic illustrations of female persons in obscene, indecent, filthy, lewd, lascivious and disgusting poses and positions; in violation of Rule 17 of State Regulation No. 20."

The file herein discloses that on January 13, 1958 an ABC agent, while making an inspection of defendant's licensed premises, discovered in a drawer in the back bar, a large number of photographs depicting females, some fully dressed, some partly dressed and some in the nude, in indecent poses.

Defendant has no prior adjudicated record. The facts urged by counsel in mitigation of the offense have been considered and I shall suspend defendant's license for a period of fifteen days. Re Muchnicki & Wozniak, Bulletin 1076, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 24th day of February, 1958,

ORDERED that Plenary Retail Consumption License C-267, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Mariner's Bar, Inc., t/a Mariner's Bar and Grill, for premises 279 Orange Street, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. March 3, 1958, and terminating at 2:00 a.m. March 13, 1958.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

THE HAMILTON BAR, INC.)
t/a HAMILTON BAR)
127 Morris Street)
Morristown, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-11, issued by the Board of Aldermen of the Town of Morristown.)

-----)
Defendant-licensee, by Andrew Carbello, President.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

The file herein discloses that on or about November 25, 1957, the licensee, who operates a tavern, sold to one industrial concern ten cases of twelve 4/5 quart-bottles (fifths) each and eight cases of twenty-four pint-bottles each of Schenley Reserve Blended Whiskey, one case of twelve 4/5 quart-bottles (fifths) each of Seagram's V.O. Canadian Whisky and one case of twelve 4/5 quart-bottles (fifths) each of Dewar's White Label Scotch Whisky, for a total purchase price of \$1015.53, represented by the purchaser's check in the amount of \$515.53 deposited by the licensee on November 25, 1957, and one for \$500 deposited December 10, 1957. The total minimum retail consumer resale price then in effect for the twenty cases of whiskey, after allowance of the permissible discount, was \$1241.92.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of twenty days because of the substantial quantity (20 cases) involved in the violation (Re Town Hall Delicatessen, Inc., Bulletin 1187, Item 4). Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 10th day of March, 1958,

ORDERED that Plenary Retail Consumption License C-11, issued by the Board of Aldermen of the Town of Morristown to The Hamilton Bar, Inc., t/a Hamilton Bar, for premises 127 Morris Street, Morristown, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. March 18, 1958, and terminating at 2:00 a.m. April 2, 1958.

WILLIAM HOWE DAVIS
Director.

ACTIVITY REPORT FOR MARCH 1958

ARRESTS:

Total number of persons arrested	- - - - -	19
Licensees and employees	- - - - - 6	
Bootleggers	- - - - - 11	
ABC agent impersonators	- - - - - 2	

SEIZURES:

Motor vehicles - cars	- - - - -	1
- trucks	- - - - -	1
Still - over 50 gallons	- - - - -	1
Distilled alcoholic beverages - gallons	- - - - -	18.79
Wine - gallons	- - - - -	153.05
Brewed malt alcoholic beverages - gallons	- - - - -	7.97

RETAIL LICENSEES:

Premises inspected	- - - - -	862
Premises where alcoholic beverages were gauged	- - - - -	530
Bottles gauged	- - - - -	8,985
Premises where violations were found	- - - - -	100
Violations found	- - - - -	120
Type of violations found:		
Application copy not available	- - - - - 27	Improper beer taps - - - - - 16
Prohibited signs	- - - - - 19	Disposal permit necessary - - - - - 4
Reg. #38 sign not posted	- - - - - 19	Other mercantile business - - - - - 3
Unqualified employees	- - - - - 16	Other violations - - - - - 16

STATE LICENSEES:

Premises inspected	- - - - -	45
License applications investigated	- - - - -	3

COMPLAINTS:

Complaints assigned for investigation	- - - - -	415
Investigations completed	- - - - -	378
Investigations pending	- - - - -	146

LABORATORY:

Analyses made	- - - - -	151
Bottles from unlicensed premises	- - - - -	41

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made	- - - - -	15
Persons fingerprinted for non-criminal purposes	- - - - -	188
Identification contacts made with other enforcement agencies	- - - - -	148
Motor vehicle identifications via N. J. State Police teletype	- - - - -	2

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	- - - - -	15
Violations involved	- - - - -	17
Sale during prohibited hours	- - - - - 9	Permitting music during prohibited hours (local reg.) - - - - - 1
Sale to minors	- - - - - 3	Failure to afford view into premises during prohibited hours - - - - - 1
Failure to close premises during prohibited hours	- - - - - 2	
Sale to non-members by club	- - - - - 1	
Cases instituted at Division	- - - - -	30
Violations involved	- - - - -	43
Sale to intoxicated persons	- - - - - 7	Delivery without bona fide invoice - 1
Sale to minors	- - - - - 7	Permitting foul language on prem. - 1
Sale below minimum resale price	- - - - - 4	Hindering investigation - - - - - 1
Sale during prohibited hours	- - - - - 3	Possessing indecent matter - - - - - 1
Permitting bookmaking on premises	- - - - - 3	Permitting hostesses on premises - 1
Permitting lottery activity (fight pool, numbers) on premises	- - - - - 2	Possessing contraceptives on prem. - 1
Mislabeled beer taps	- - - - - 2	Failure to have copy of license application on premises - - - - - 1
Unqualified employees	- - - - - 2	Aiding and abetting wholesaler to sell to consumer - - - - - 1
Permittee engaging in conduct prohibited to employer	- - - - - 2	Permitting immoral activity on prem. - 1
Sale outside scope of license	- - - - - 1	Conducting business as a nuisance - 1
Cases brought by municipalities on own initiative and reported to Division	- - - - -	16
Violations involved	- - - - -	18
Sale to minors	- - - - - 6	Permitting bookmaking on premises - 1
Sale during prohibited hours	- - - - - 4	Permitting prostitute on premises - 1
Permitting brawls on premises	- - - - - 2	Permitting immoral activity on prem. - 1
Failure to provide constable to maintain law and order (local reg.)	- - - - - 2	Sale to intoxicated person - - - - - 1

HEARINGS HELD AT DIVISION:

Total number of hearings held	- - - - -	44
Appeals	- - - - - 4	Seizures - - - - - 3
Disciplinary proceedings	- - - - - 31	Tax revocations - - - - - 1
Eligibility	- - - - - 5	

STATE LICENSES AND PERMITS ISSUED:

Total number issued	- - - - -	824
Licensees	- - - - - 3	Wine permits - - - - - 1
Employment permits	- - - - - 85	Miscellaneous permits - - - - - 103
Solicitors	- - - - - 58	Transit insignia - - - - - 203
Disposal	- - - - - 70	Transit certificates - - - - - 24
Social affair	- - - - - 277	

Dated: April 3, 1958

WILLIAM HOWE DAVIS
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SOLICITOR'S PERMIT - EMPLOYMENT OF SOLICITOR BY RETAILER - PERMIT SUSPENDED FOR 5 DAYS.

In the Matter of Disciplinary Proceedings against)

GERALD LeWINTER)
1504-B Plaza Road)
Fair Lawn, N. J.,)

CONCLUSIONS AND ORDER

Holder of Solicitor's Permit No. 2758, issued by the Director of the Division of Alcoholic Beverage Control.)
-----)

Gerald LeWinter, Defendant-permittee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to the following charge:

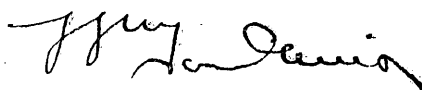
"Between November 11, 1957 and December 21, 1957, you, the holder of a solicitor's permit were interested, directly or indirectly, in a retail license and the business conducted thereunder and were employed by and connected in a business capacity with a retail licensee in that you worked as a stock clerk and sales clerk at retail licensed premises of Mack Drug Co., Inc. of Hackensack, t/a Mack's, 197-197A Main Street, Hackensack, New Jersey; in violation of Rule 7 of State Regulation No. 14."

The file herein discloses the facts fully set forth in the above charge. In mitigation of the violation the defendant states that he intended to aid the retailer, as a temporary service to his customer, rather than engage in regular employment. However, the above mentioned rule prohibits the holder of a solicitor's permit to be employed by or connected in any business capacity with any retail licensee.

Since the defendant has no prior record, and there are no aggravating circumstances, I shall suspend defendant's permit for a period of five days (Re Cassidy, Bulletin 1087, Item 4).

Accordingly, it is, on this 25th day of March, 1958,

ORDERED that Solicitor's Permit No. 2758, issued by the Director of the Division of Alcoholic Beverage Control to Gerald LeWinter, 1504-B Plaza Road, Fair Lawn, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. April 7, 1958, and terminating at 9:00 a.m. April 12, 1958.



William Howe Davis
Director.