

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

BULLETIN 1174

JUNE 27, 1957.

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The file herein discloses that on Sunday, March 31, 1957, at about 11:45 a.m., two ABC agents entered a garage located in the rear of defendant's licensed premises where they observed Clarence Cook (an employee of defendant) selling a pint bottle of P. M. Blended Whiskey and a six-can pack of Schmidt's beer to Hosea L. Maybin, a customer. As Maybin was leaving the garage one of the agents asked Cook for a pint bottle of whiskey, in response to which Cook handed him a pint bottle of Seagram's Seven Crown Blended Whiskey and accepted \$3.25 in payment thereof. The second agent then asked for and received a six-can pack of Schmidt's beer for which he paid \$1.00. Both agents left the garage with their aforesaid purchases and caught up with Maybin on the outside of the garage. All three returned to the garage where the agents identified themselves to Cook who gave a sworn written statement in which he admitted the aforesaid violations; that he had been selling whiskey and beer in the garage before hours on previous Sundays for a period of a few months; that this was in accordance with instructions from Dominick Masucci, president and one-half owner of defendant corporate licensee; and that he had sold fourteen pints of whiskey and three six-can packs of beer on this particular day. Cook made this statement in the presence of Dominick Masucci who orally admitted the statements by Cook to be true.

The prohibited hours set forth in the aforesaid ordinance are from 2:00 a.m. to 1:00 p.m. on Sundays.

The minimum consumer resale price for a six-can pack of Schmidt's beer in effect on the aforesaid date was \$1.10.

Defendant has no prior adjudicated record. I shall suspend its license on Charges 1, 2 and 4 herein for thirty days (Re Julewicz, Bulletin 1034, Item 8), and for an additional ten days on Charge 3 herein (Re Bregman, Bulletin 1128, Item 12), making a total suspension of 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 13th day of May, 1957,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of East Windsor Township to D. Masucci, Inc., t/a Penny's Tavern, for premises at Cor. Etra Road & Cedarville Road, East Windsor Township, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. May 20, 1957, and terminating at 2:00 a.m. June 24, 1957.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

SALVATORE STARVAGGI)
T/a SAL'S TAVERN)
200 Monticello Avenue)
Jersey City 4, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-383, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Jersey City.)

-----)
Salvatore Starvaggi, Defendant-licensee, Pro se.
David S. Piltzer, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold during prohibited hours an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that at 10:50 p.m. Friday, March 22, 1957, an ABC agent who had been in defendant's licensed premises observed the bartender therein sell a pint of whiskey to a patron for off-premises consumption. The agent sought to make a similar purchase but was refused. When the patron left the premises the agent followed and signaled another agent who had remained outside. Both identified themselves to the patron, seized his purchase and, with him, returned to the premises where they made known their identities to the bartender who gave them a voluntary, signed statement admitting the violation charged herein.

Defendant has a prior adjudicated record. Effective July 21, 1947, his license was suspended for ten days by the local issuing authority and, effective February 3, 1954, his license was suspended for fifteen days by the Director (Re Starvaggi, Bulletin 1002, Item 4), both suspensions being imposed for violations similar to that charged herein. Because of the similar violation which occurred within a five-year period, the minimum penalty of fifteen days (Re Boshart, Bulletin 1128, Item 8) will be doubled (Re 819 Club, Inc., Bulletin 1094, Item 9), and an additional five days will be added for the similar violation which occurred more than five years ago but within a ten-year period (Re Belisonzi & Maurice, Bulletin 1100, Item 11). Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 20th day of May, 1957,

ORDERED that Plenary Retail Consumption License C-383, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Salvatore Starvaggi, t/a Sal's Tavern, for premises 200 Monticello Avenue, Jersey City, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. June 1, 1957, and terminating at midnight June 30, 1957.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS IN SUCH A MANNER AS TO BECOME A NUISANCE - PRIOR RECORD OF CORPORATION IN WHICH DEFENDANT WAS OFFICER AND STOCKHOLDER -- LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

TEDDY RIGANO)
615 Paterson Plank Road)
Union City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-139, issued by the Board of Commissioners of the City of Union City.)
-----)

Saul C. Schutzman, 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 charge:

"On March 21, 22, 27 and 28, 1957, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered unescorted females frequenting your licensed premises to solicit male patrons to purchase numerous drinks of alcoholic beverages for consumption by them and others and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

The file herein discloses that ABC agents were in defendant's licensed premises on two occasions, to wit: from 9:15 p.m. on Thursday, March 21, 1957 to 12:15 a.m. on Friday, March 22, 1957, and from 9:30 p.m. on Wednesday, March 27, 1957 to 2:15 a.m. on Thursday, March 28, 1957. On both of the aforesaid visits, the agents observed many unescorted females solicit drinks from and at the expense of male patrons with the complete cooperation and assistance of the bartenders on duty. During aforementioned periods, these females also successfully practiced their "barfly" activities on the ABC agents.

By way of mitigation, counsel for the defendant has submitted a statement requesting that I deal leniently with the licensee. I have read his letter and the file in the case. I have also examined the files of two other cases wherein similar violations are reported involving the Club Hi-De-Ho, Inc. in which Teddy Rigano, the licensee herein, was an officer and stockholder. In the first of these two cases, it does not appear that Rigano was actively engaged in the operation of the business. In the second one, however, the file discloses quite clearly that Rigano was on the licensed premises and behind the bar from about 2:30 to 3:00 a.m. on Sunday, January 23, 1955 on which day and morning the misconduct took place. The entire matter has been carefully considered.

Defendant has no prior adjudicated record. However, when referring to the aforesaid convictions more specifically,

it appears that Teddy Rigano, the licensee herein, was secretary-treasurer and a holder of 60% of the stock in the Club Hi-De-Ho, Inc. when its license was suspended, effective April 4, 1954, for forty-five days by the Director of this Division for indecent entertainment and hostess activity (Bulletin 1013, Item 2), and was secretary and a holder of 50% of the stock when said corporate-licensee's license was again suspended, effective March 2, 1955, for thirty-five days by the Director of this Division for hostess activity (Bulletin 1053, Item 4). Ordinarily the penalty for the violation charged herein is twenty days (Re Marrone, Bulletin 1076, Item 4). However, since defendant was an officer and stockholder in a corporation which held a license for other premises at which two similar violations occurred within a period of about three years, I shall suspend defendant's license for thirty days. Re Meller, Bulletin 1026, Item 3; Re Ralph and John's Tavern, Inc., Bulletin 1094, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 20th day of May, 1957,

ORDERED that Plenary Retail Consumption License C-139, issued by the Board of Commissioners of the City of Union City to Teddy Rigano, 615 Paterson Plank Road, Union City, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 3:00 a.m. May 27, 1957, and terminating at 3:00 a.m. June 21, 1957.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - POSSESSION OF INDECENT MATTER - SALE DURING PROHIBITED HOURS IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LOUIS SERGE MAVROFF)
T/a LUIGI'S BAR)
548 Crystal Avenue)
Vineland, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-13, issued by the Mayor and Council of the City of Vineland.)

Malandra & Tomaselli, Esqs., by Angelo Malandra, Esq.,
Attorneys 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 charges:

"1. On March 13, 14, 16 and 17, 1957, you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter, viz., four (4) placards and a cardboard box each containing a picture, cartoon, drawing, sketch or representation with accompanying words, phrases, legends or expressions having obscene, indecent, filthy, lewd, lascivious and disgusting import and meaning; in violation of Rule 17 of State Regulation No. 20.

"2. On Sunday, March 17, 1957, at about 1:45 a.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages at retail in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of such alcoholic beverages in their original containers from your licensed premises, viz., three (3) quart bottles of beer; in violation of Rule 1 of State Regulation No. 38."

The file herein discloses that on March 13, 14, 16 and 17, 1957, ABC agents visited defendant's licensed premises at which times they observed three plaques and a large picture postal card displayed on the back bar underneath which they later found a cardboard box. The plaques were made of plywood upon which were painted cartoons accompanied by writings with a double entendre. The postal card likewise bore a writing with a double entendre. The contents of the cardboard box with the printed matter thereon are obscene and have no place in a tavern.

On their visit of March 16, 1957, four agents entered the tavern at about 10:30 p.m. and observed a number of patrons (male and female) seated at the bar behind which stood the licensee acting as bartender. Shortly thereafter, they saw one of the patrons pick up a brown paper bag in front of him on the bar and move to another seat. At about 11:15 p.m. they noticed this patron depart from the premises with the aforementioned package. A few hours later at about 1:45 a.m., one of the agents asked the licensee for three quarts of beer. The licensee thereupon put three quart bottles of beer in a brown paper bag, placed the package on the bar and accepted \$1.35 in payment thereof. Three of the agents then left the premises with the beer.

Within a few minutes they were readmitted to the premises by the fourth agent. All the agents then identified themselves to the licensee who gave a sworn written statement admitting the unlawful sale to the agent and further that he sold six cans of beer to the aforementioned patron about three or four minutes before 10:00 p.m., and saw him leave the premises between 11:30 and 11:45 p.m.

By way of mitigation, counsel for the defendant has submitted a letter requesting that I deal leniently with the licensee. I have carefully read his letter and examined the file but am unable to find any justification that would impel me to impose a lesser penalty than the minimum fixed in cases of this kind.

Defendant has no prior adjudicated record. I shall suspend his license for ten days, the minimum penalty, on Charge 1 (Re Messing, Bulletin 1128, Item 3), and for an additional fifteen days, the minimum penalty for an "hours" violation, on Charge 2 (Re DeCarlo, Bulletin 1128, Item 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 13th day of May, 1957,

ORDERED that Plenary Retail Consumption License C-13, issued by the Mayor and Council of the City of Vineland to Louis Serge Mavroff, t/a Luigi's Bar, 548 Crystal Avenue, Vineland, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. May 21, 1957, and terminating at 2:00 a.m. June 10, 1957.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - CHARGES ALLEGING POSSESSION OF INDECENT MATTER AND STORAGE AT OTHER THAN LICENSED PREMISES DISMISSED.

In the Matter of Disciplinary Proceedings against)

ROGER WILCO, INC.)
 T/a ROGER WILCO, INC.)
 Route #73, Highway bet. Broad &)
 5th Street)
 Palmyra, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-1 issued by the Mayor and Borough Council of the Borough of Palmyra.)

-----)
 Malandra & Tomaselli, Esqs., by Joseph Tomaselli, Esq., Attorneys for Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charges:

'1. On August 28, 1956, and prior thereto, 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 printing, writing, pictures and representations; in violation of Rule 17 of State Regulation No. 20.

'2. On August 28, 1956, and prior thereto, you stored alcoholic beverages at a place other than your licensed premises or a licensed public warehouse or pursuant to special permit; in violation of Rule 25 of State Regulation No. 20.'

"At the outset, it might be desirable to set forth the information given by defendant in answer to Question 7 of the renewal application filed by defendant pursuant to which the current plenary retail distribution license was issued.

"Question 7 and the answers as given thereto by defendant reads as follows:

'7. Will the entire building or buildings constitute the licensed premises? No.

(a) .If not, specify in detail the floors and room which WILL constitute the licensed premises (where alcoholic beverages will be sold, served, or stored). First Floor - Retail Store - Refrig. - Garage - Basement.

(b) Specify what grounds, if any, adjacent to the above premises WILL be part of the licensed premises (where alcoholic beverages will be sold, served, or stored).
 Unanswered'

"An ABC agent testified that at 1:15 p.m. on August 28, 1956 he visited defendant's licensed premises; that upon a section of a cement walk approximately ten or twelve feet in width adjoining the front of the building and running parallel thereto, he observed numerous cases of beer; that the building is located about 100 feet from the public highway and that the front part of the roof extends for a distance of about ten feet over the cement walk aforementioned; that in a room known as the 'Party Shoppe', he seized divers coasters and four books (the coasters were miniature replicas of intimate personal appendages and the titles of the books and the contents thereof appeared risqué).

"Leo C. Meisler, president of the defendant corporate-licensee, testified that at the time he filed the application for the license in question it was accompanied by a sketch setting forth with particularity the parts of the building which were and those which were not covered by the liquor license. The sketch disclosed that the 'Gourmet Room' which is also known as the 'Party Shoppe' was not included as part of the licensed premises.

"Herbert C. Johnson and Eugene A. Diamond, members of the Borough Council of the municipality wherein the defendant's licensed premises are located, testified that they observed the sketch aforementioned, or one similar thereto, attached to the defendant's application when the defendant's license was considered for renewal.

"W. Harold Thorn testified that he is employed as Building Inspector for the Borough of Palmyra and is also a building contractor; that he constructed defendant's licensed premises; that although the cement walk in front of the building was referred to as a sidewalk, he did not consider it to be such, and described it as '---simply a stoop underneath the porch or an extension of the first floor where the front wall being placed there with another series of trusses so at any time if they wanted to move it out to the end of that erroneously called sidewalk it could be moved out there.'

"The charges in the instant case were instituted because the application filed by defendant with the local issuing authority as a result of which its license was renewed for the current licensing period did not specify with sufficient detail the part of the premises covered by the license. The sketch which defendant claims accompanied the application did exclude the 'Party Shoppe' as part of the licensed premises. There is some dispute regarding whether the said sketch was attached to the original application which was on file with the Municipal Clerk. The agent, on the one hand, testified that he did not inspect the original application in the Clerk's office and when examining the copy of the application at defendant's premises, he did not observe any sketch attached thereto. The president of the defendant-licensee contends it was attached to the application filed with the Clerk. The two members of the Borough Council testified that they remember seeing the sketch, or one similar thereto, at the time they approved the renewal of the license. Although a copy of the sketch which expressly excluded the 'Party Shoppe' apparently was not available at the time when the agent visited the licensed premises, I am satisfied from the evidence presented by the defendant that a copy thereof had been filed with the original application in the office of the Municipal Clerk. It appears that defendant permitted the cases of beer to be stored

on the cement walk under the extended portion of the roof because he considered the cement walk to be covered by the license. The manner of construction and the extension of the roof or over-hang to cover the cement walk might lead a reasonable person to concur in the defendant's belief.

"It might be well to point out that in the future, licensees should, in the preparation of the applications for licenses be more careful regarding the description of what actually will constitute the licensed premises so that there shall be no chance for ambiguity or misunderstanding in this matter.

"Under the circumstances appearing in this case, I recommend that the charges herein for the reasons aforementioned, be dismissed."

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

After careful examination of the record in the instant case, I agree with and adopt the recommended conclusions of the Hearer that the charges herein be dismissed. However, it would be well if the defendant would discontinue storing cases of beer on the cement walk as had been done heretofore. Such storage of beer being so accessible to the general public might well tend to attract minors to devise means of obtaining some of the product. I might also state that the defendant when making application for renewal of its license should specifically describe in its application the portion of the building to be used as the licensed premises.

Accordingly, it is, on this 13th day of May, 1957,

ORDERED that the charges herein be and the same are hereby dismissed.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE
SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary)
Proceedings against)
ELIZABETH BUCHANAN and)
JENNIE SECARY)
T/a BUCHANAN'S LIQUOR & DELICATESSEN) CONCLUSIONS
952 - 18th Avenue) AND ORDER
Newark, N. J.,)

-----)
Holders of Plenary Retail Distribution)
License D-171, issued by the Municipal)
Board of Alcoholic Beverage Control of)
the City of Newark.)

Herman E. Dultz, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

"Defendants pleaded not guilty to a charge alleging that on November 17 and 21, 1956, they sold, served and delivered alcoholic beverages to three minors in violation of Rule 1 of State Regulation No. 20.

"At the hearing herein, the charge as to one of the minors, who is in military service, was dismissed.

"The Division called as its witnesses James ---, age eighteen, Richard ---, age sixteen, Thomas ---, Edward ---, Warren ---, and an ABC agent.

"James testified, in substance, that he, Thomas and Edward arrived in the vicinity of defendants' licensed premises between 7:30 and 8:00 p.m., Saturday, November 17, 1956; that he and Thomas entered the premises wherein he purchased a pint of rum from Edward Buchanan, the clerk, who required no written proof of his age. Thomas corroborated James' testimony and Edward testified that he saw James and Thomas enter defendants' premises and that when they came out, James was carrying a pint of rum.

"Richard testified that he, Warren and another youth arrived in the vicinity of defendants' licensed premises between 8:30 and 9:00 p.m., Wednesday, November 21, 1956; that he and the other youth entered the premises wherein they each purchased a quart of wine from the aforesaid clerk who told them that the premises would be opened for business the next day (Thanksgiving) if they wanted anything else; that he had, on other occasions, purchased alcoholic beverages from the same clerk; and that at no time was he required to produce written proof of his age. Warren testified that he saw Richard and the other youth enter defendants' premises and emerge therefrom, each carrying a bottle of wine.

"The ABC agent testified that on November 26, 1956, Richard and Warren directed him to defendants' licensed premises which they pointed out as the place wherein Richard had purchased the wine and Richard identified therein Edward Buchanan as the person who made the sale; that on December 4, 1956, James identified Edward Buchanan as the person who sold him the rum; and that on December 5, 1956, Thomas and Edward identified the premises wherein James obtained the rum.

"Edward Buchanan testified, in substance, that he had never seen any of the boys except Richard prior to the time they came into the licensed premises with the ABC agent and that at the time Richard came in he purchased potato chips, pretzels and cigarettes. He denied ever having sold alcoholic beverages to any of the minors and stated that his wife, Elizabeth Buchanan (one of the licensees herein) works on the licensed premises from 2:00 to 10:00 p.m. every weekday.

"Elizabeth Buchanan testified that she was working in the licensed premises on the dates alleged in the charge; that neither she nor her husband sold alcoholic beverages to the minors; and that on a prior occasion, she saw Richard in the premises at which time he 'made a purchase. It was chips or something.'

Having carefully considered all the facts and circumstances herein, I find that the Division has established defendants' guilt as to the sale of alcoholic beverages to Richard and James by more than a fair preponderance of the believable evidence.

"Defendants have no prior adjudicated record. In view of the fact that one of the minors involved was only sixteen years of age, I recommend that defendants' license be suspended for a period of twenty-five days Re Campbell, Bulletin 1133, Item 7."

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

After carefully considering the facts and circumstances herein, I concur in and adopt the findings and recommended conclusions of the Hearer. Hence, I shall suspend defendants' license for a period of twenty-five days.

Accordingly, it is, on this 13th day of May, 1957,

ORDERED that Plenary Retail Distribution License D-171, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Elizabeth Buchanan and Jennie Secary, t/a Buchanan's Liquor & Delicatessen, for premises 952 - 18th Avenue, Newark, be and the same is hereby suspended for twenty-five (25) days, commencing at 9:00 a.m. May 20, 1957, and terminating at 9:00 a.m. June 14, 1957.

WILLIAM HOWE DAVIS
Director.

7. STATE BEVERAGE DISTRIBUTOR'S LICENSE - OBJECTIONS TO TRANSFER HELD TO BE MERITORIOUS - APPLICATION DENIED.

In the Matter of Objections to)
the Place-to-Place Transfer of)
State Beverage Distributor's License)
SBD-44 held by)

MAURICE TAYLOR)

CONCLUSIONS

from Easterly Side of New York Avenue)
between Walnut & Spruce Avenues,)
North Wildwood, N. J., to Southeast)
Corner First Street & Rio Grande)
Boulevard, Middle Township, New Jersey.)

William J. Peters, Esq. and Green and Yanoff, Esqs., by)
Leo Yanoff, Esq., Attorneys for Applicant-licensee.)
Donald A. Gaver, Esq., Attorney for Objectors.)

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Written objections were filed with the Director of the Division of Alcoholic Beverage Control to the application of Maurice Taylor for a place-to-place transfer of his state beverage distributor's license from his present premises on the easterly side of New York Avenue, between Walnut and Spruce Avenues, North Wildwood, to premises located on the southeasterly corner of First Street and Rio Grande Boulevard, Middle Township, County of Cape May, New Jersey.

"A resolution was thereafter adopted by the unanimous vote of the members of the Township Committee in opposition to the transfer of the said license.

"A hearing was held on December 17, 1956 at which time objections to the transfer aforementioned were heard. The

witnesses opposing the transfer testified that in their opinion there was neither a need nor a necessity for another liquor outlet in the municipality. Furthermore, various witnesses contended that the operation of the proposed premises at the proposed site would constitute a traffic hazard.

"Harry S. Eldredge, Mayor of Middle Township, testified, among other things, that there are at present two plenary retail consumption licenses and one club license within the confines of the Township; that there are other liquor licensees located in adjoining municipalities who make deliveries of alcoholic beverages to persons in the Township; that traffic congestion would result in the area if the transfer of the license were approved; that numerous persons residing in the Township indicated to him their opposition to the transfer of the license in question; and that in his opinion the proposed premises were located too close to a church.

"Laurence Daniels, a member of the Township Committee, testified that in his opinion there is no need in the Township for the type of license held by applicant.

"Twelve other persons, among whom were four clergymen, testified in opposition to the transfer in question, stating that they were of the opinion that there was no need or necessity for an additional license of any kind in the municipality. It was stipulated by the attorneys herein that if forty other persons who attended the hearing were called as witnesses their testimony would be in opposition to the transfer for the reasons advanced by the witnesses who had already testified.

"Applicant testified that he applied for transfer of his license to the proposed location because, among other things, it would place him closer to his distribution points, thus saving considerable operational expense; that in his opinion there is room for off-street parking facilities adjacent to the proposed premises to accommodate a minimum of twenty automobiles; that according to a survey prepared by a civil engineer the distance from the proposed premises to the entrance to the nearest church was in excess of 200 feet; that the operation of his business at the proposed premises would, in his opinion, tend to increase the sale, at both the wholesale and retail levels, of the brands of beer which he presently handles.

"Petitions opposing the transfer in question containing 461 names of persons allegedly residing in the Township were presented at the hearing.

"One of the reasons advanced by the objectors was that there are sufficient liquor outlets to supply the needs of those desiring malt beverages in the Township and the adjoining municipalities. However, in considering this objection it must be borne in mind that the privileges of a state beverage distributor's license are state-wide and, thus, the question of public necessity and convenience cannot be determined on the narrow basis of the single municipality in which the prospective licensee would have his principal office or warehouse. Re Variety Beers and Soda Distributors, Inc., Bulletin 1000, Item 6; Re Vigor Beverages Co., Inc., Bulletin 941, Item 9. Nevertheless, it has consistently been held that the transfer of a license, whether state or municipal,

to another premises is not a privilege inherent in a license. Re Variety Beers and Soda Distributors, Inc., supra; Van Schoick v. Howell, Bulletin 120, Item 6. An application for transfer, if good cause appears, may be denied in the discretion of the issuing authority. Re Variety Beers and Soda Distributors, Inc., supra.

"Another objection of the members of the Township Committee is based on the belief that the transfer to the proposed area would result in added traffic congestion. Applicant produced as a witness a traffic expert, who testified that the vehicular traffic in the area of the proposed premises is heavy all year round; that it is a shopping center and 'probably the hub of the county' and that there are times when the State Police are assigned 'down there to move the traffic'; and that any type of business established in the area would, in his opinion, add to the traffic problem. On cross-examination the witness testified that on weekends during the summer cars are backed up for a mile distant in either direction at the intersection. Traffic conditions may properly be considered in licensing matters. Re Freed v. Wayne Township, Bulletin 892, Item 7.

"I have carefully examined and considered the evidence presented herein. The people residing in the Township wherein the proposed premises are located have overwhelmingly indicated their opposition to the transfer of the license in question. The petitions produced at the hearing contain 461 names of persons who, according to the testimony of Mayor Eldredge, reside in the Township. Moreover, more than fifty witnesses appeared at the within hearing to voice their objections to the transfer. The display of sentiment by residents of the community cannot be ignored. Furthermore, I am satisfied from the testimony of the traffic coordinator who testified for the applicant that the already existing traffic congestion at the corners would become aggravated by the transfer. Although municipal consent to the transfer is not a statutory prerequisite, due consideration to the fact that the governing body objected to the transfer must be given. There is no evidence or indication in the record that any objector to the granting of the transfer was improperly motivated. Under the circumstances, I recommend that the application filed by the applicant for the transfer of the license to the proposed premises be denied."

Written exceptions and written argument as to the said exceptions were filed with me by the attorneys for applicant-licensee, and written answering argument was filed with me by the attorney for the objectors in this matter.

After carefully considering the entire record in this case, including the transcript of testimony, the Hearer's Report and the exceptions and written arguments of counsel, I concur in and adopt the conclusions set forth in the Hearer's Report as my conclusions herein and, as recommended by the Hearer, I shall deny applicant's application for the place-to-place transfer in question.

WILLIAM HOWE DAVIS
Director.

Dated: May 13, 1957.

8. DISCIPLINARY PROCEEDINGS - ILLICIT ALCOHOLIC BEVERAGES -
LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)
)
 NICHOLAS DZIIOBAK, VINCENT BRUGGIS)
 & ANNA BRUGGIS)
 T/a VINNIE & NICKY'S TAVERN)
 227-29 Elmora Ave.)
 Elizabeth, N. J.,)
)
 Holders of Plenary Retail Consump-)
 tion License C-65, issued by the)
 Municipal Board of Alcoholic)
 Beverage Control of the City of)
 Elizabeth.)

CONCLUSIONS
AND ORDER

 Defendant-licensees, by Vincent Bruggis, Partner.
 William F. Wood, Esq., appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they possessed on their licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

The file herein discloses that on April 8, 1957, an ABC agent, while testing and gauging the licensees' stock of open bottles of alcoholic beverages, seized two bottles because their contents appeared to be low in proof, and submitted said bottles to the Division's chemist for analysis. The chemist's report shows that, when compared with samples of the genuine product of the labeled brand, the contents of one of the bottles, labeled "Kinsey Blended Whiskey 86.8 Proof (Gold)", are short in proof 19.8 and the solids and acids are low, and the contents of the other bottle, labeled "Park & Tilford Reserve Whiskey A Blend 86 Proof", are short in proof 2.8, and the solids and acids are low.

Defendants have no prior adjudicated record. I shall suspend the license of defendants for a period of fifteen days (the minimum period where two bottles are involved). Five days will be remitted for the plea entered herein, leaving a net suspension of ten days (Re Bamboo Garden Corp., Bulletin 1158, Item 4).

Accordingly, it is, on this 14th day of May, 1957,

ORDERED that Plenary Retail Consumption License C-65, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth to Nicholas Dziobak, Vincent Bruggis & Anna Bruggis, t/a Vinnie & Nicky's Tavern, for premises 227-29 Elmora Ave., Elizabeth, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. May 20, 1957, and terminating at 2:00 a.m. May 30, 1957.

WILLIAM HOWE DAVIS
 Director.

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

In the Matter of Disciplinary)
 Proceedings against)
)
 CHIP'S WISHING WELL INN, INC.)
 178 Hackensack Street)
 Wood Ridge, N. J.,)
)
 Holder of Plenary Retail Consump-)
 tion License C-7, issued by the)
 Mayor and Council of the Borough)
 of Wood Ridge.)

CONCLUSIONS
 AND ORDER

 Macy Davidson, 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 charge:

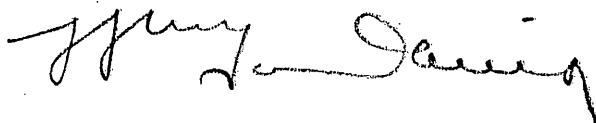
"On April 11, 1957, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Peter ---, age 19, Robert ---, age 20, and Mary ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons, in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

The file herein discloses that on Thursday, April 11, 1957, at about 9:25 p.m., two ABC agents entered defendant's licensed premises and took seats at the bar which was being tended by Alexander Tommazzo, president of defendant corporate-licensee. At about 11:00 p.m. the agents saw the bartender serve a glass of beer to each of three apparent minors (one female and two males) and accept 45¢ in payment thereof. After observing these young people consume part of their beer, the agents identified themselves to them. The minors then gave their names and ages as follows: Peter --- (age 19), Robert --- (age 20) and Mary --- (age 20). Shortly thereafter each of these minors gave a sworn written statement setting forth therein that they were each served a glass of beer; that the bartender was paid 15¢ per glass, and that no one on the premises made any inquiry of them about their ages. Tommazzo verbally admitted the aforementioned violation to the agents.

Defendant has a prior adjudicated record. Effective November 25, 1956, its license was suspended by the local issuing authority for seven days for an "hours" violation and for failure to have the premises closed during prohibited hours. The minimum suspension for a sale otherwise unaggravated to a nineteen-year-old minor is fifteen days (Re Mondelli, Bulletin 1142, Item 8). Because of the prior dissimilar violation within the past five years and the number of minors involved, I shall suspend defendant's license for 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 14th day of May, 1957,

ORDERED that Plenary Retail Consumption License C-7, issued by the Mayor and Council of the Borough of Wood Ridge to Chip's Wishing Well Inn, Inc., for premises 178 Hackensack Street, Wood Ridge, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. May 17, 1957, and terminating at 2:00 a.m. June 6, 1957.



William Howe Davis
Director.