

BULLETIN 1286

July 21, 1959

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

BULLETIN 1286

July 21, 1959

1. NEW LEGISLATION - R.S. 33:1-16 AMENDED - LICENSED PREMISES
LOCATED IN TWO MUNICIPALITIES.

Assembly, No. 366 was approved by the Governor on June 3, 1959, and thereupon became Chapter 67 of the Laws of 1959. It reads as follows:

"AN ACT concerning alcoholic beverages and amending section 33:1-16 of the Revised Statutes.

"BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

"1. Section 33:1-16 of the Revised Statutes is amended to read as follows:

"33:1-16. Whenever it shall appear that a building or premises to be licensed is located in more than 1 municipality, whether originally so constructed or whether resulting from enlargement or addition to the building or premises, it shall not be necessary to secure more than 1 license of the same class for the building or premises. Application may be made in 1 of the municipalities having jurisdiction over any part of the building or premises and said municipalities shall agree upon a satisfactory division of the fee. If the municipalities cannot agree upon a satisfactory division of the fee it shall then be the duty of the Commissioner to determine the proportionate amount of the fee to be paid to each of the municipalities; but in no case shall the total fee to be paid exceed the higher license fee as fixed in any of the municipalities in which part of the building or premises is located. For the purpose of any statute fixing limits on the number of licenses which may be issued in a municipality, any license issued in compliance with this section shall be charged only to the municipality in whose name the same is issued.

"2. This act shall take effect immediately."

WILLIAM HOWE DAVIS
DIRECTOR

Dated: July 10, 1959

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY - PERMITTING OBSCENE LANGUAGE - FALSE ANSWER IN APPLICATION - VIOLATION OF R.S. 33:1-34 - FAILURE TO HAVE TRUE COPY OF LICENSE APPLICATION ON PREMISES - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against

TUCK INN, a Corp. t/a TUCK INN 314 River Street Paterson 4, N. J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-164, issued by the Board of Alcoholic Beverage Control for the City of Paterson, and transferred during the pendency of these proceedings to

THOMAS MARMO, JR.,

for the same premises.

----- Charles Wm. Convery, 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 February 14 and 15, 1959, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of overtures and arrangements for illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20.
"2. On February 14 and 15, 1959, you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20.
"3. In your application dated June 6, 1958, filed with the Board of Alcoholic Beverage Control for the City of Paterson, upon which you obtained your current plenary retail consumption license, you falsely stated 'No' in answer to Question 31, which asks: 'Have you agreed to pay (by way of rent, salary or otherwise) to any employee, or other person, any portion or percentage of the gross or net profits or income derived from the business to be conducted under the license applied for?', whereas in truth and fact you had agreed to pay John Tuck Allen, also known as John Tuck, one-half of the profits derived from the licensed business; said false statement being in violation of R.S. 33:1-25.
"4. You failed to file with the Board of Alcoholic Beverage Control for the City of Paterson, within ten days after the occurrence thereof, written notices of changes in fact set forth in answer to Questions 20, 21 and 22 of your aforesaid application,

such changes being that in or about August 1958 Austin Baines (your president, director and principal stockholder) changed his residence from 87 Paterson Street, Paterson (the address originally stated in answer to those questions) to 47 Bridge Street, Paterson, and that on or about February 20, 1959 he changed his residence from the latter address to 314 River Street, Paterson; your failure to file such notices being in violation of R.S. 33:1-34.

- "5. On February 15, 1959, you conducted your licensed business without having a photostatic or other true copy of your application for your current license on the licensed premises available for inspection; in violation of Rule 16(b) of State Regulation No. 20."

The file discloses that, pursuant to assignment to investigate a specific complaint that solicitation for prostitution was occurring at these licensed premises, Division Agents W and P arrived in the vicinity of the tavern at about 11:05 p.m. on Saturday, February 14, 1959, to make an undercover check. While Agent P remained outside, Agent W immediately entered and took a place at the bar at which there were several other patrons and behind which two men, one of whom was later identified as Austin Baines, president, director and 95% shareholder of the corporate-licensee, were acting as bartenders. From the outset Agent W observed and noted that the business was conducted in a very loose manner; that couples engaged in suggestive dance routines, which caused other patrons to make foul, filthy and obscene remarks concerning the dancers' movements.

Agent W, acting on the specific complaint and on his observations of the conduct of the customers and patrons of the business, inquired of Baines whether there were any girls in the tavern available for sexual intercourse. Baines stated that there were some and introduced two different girls to Agent W for that purpose. The first joined the agent shortly after Baines had a whispered conversation with her and solicited the agent for prostitution, stating that Baines had sent her and that her price was ten dollars. When the agent attempted to bargain with her on price, she immediately left him and moved to another part of the bar. Baines then brought the second girl to the agent, introduced her as a girl who would have intercourse with him and instructed her to charge the agent only eight dollars. However, the girl, in conversation with the agent, stated that her price was ten dollars and that she would not take less. The agent informed her that he did not have that much money with him, whereupon she arranged to meet him in the tavern the next afternoon at 3:00 p.m. for the stated purpose. The agent left the tavern shortly thereafter, viz., at about 12:35 a.m.

Pursuant to the aforementioned arrangement, and in furtherance of the investigation, Agent W, accompanied by Agents F, P and S arrived in the vicinity of the tavern at about 2:20 p.m. the next afternoon, Sunday, February 15, 1959. Agent S entered at about 2:35 p.m. and Agent W at about 2:45 p.m. They took separate places at the bar at which there were six other male patrons. Austin Baines and a man, later identified as Furman Combs, were acting as bartenders. Baines served Agent W and opened a conversation by asking: "How did you make out with the girl I introduced you to last night?" The agent stated that the girl had asked for ten dollars for intercourse but that he did not have that much money with him and that she had made arrangements to meet him in the tavern that afternoon. Baines counselled the agent to "play it cool" and added, in most vulgar language, that he might have to pay only eight dollars to have intercourse with her.

Agent W changed his position at the bar at about 3:50 p.m. to a point close to Agent S. Shortly thereafter, when it appeared the girl who had made the arrangements with Agent W for 3:00 p.m. might not appear, Agent W, in the presence and hearing of Agent S, spoke to Baines about it and inquired of Baines concerning another girl in the tavern, later identified as Melinda Rodriguez. Baines stated that she was available for intercourse; that her price was five dollars, plus two dollars for the room, and that he would make the arrangements with her. Baines then engaged in a whispered conversation with the girl who, shortly thereafter, approached Agent W and asked him to dance. She immediately said to him that she had heard that he wanted a girl for intercourse, adding that she did not do it for five dollars and that her price was ten dollars, plus the cost of the room. Agent W agreed. While he and the girl were dancing the patrons directed indecent remarks to them. One man was heard to call out loudly, in jocular vein, about the large size of the girl's posterior and that, to him, the girl looked as though she were engaging in sexual intercourse standing up. Apparently Baines heard these remarks since he joined in laughter with the patrons. At the conclusion of the dance Agent W and the girl returned to their places at the bar and, in the presence of the girl and Agent S, Agent W informed Baines that Melinda had solicited him for intercourse for ten dollars. Baines acknowledged Agent W's statement by stating that she would satisfy him because she was the "best." Later the agent asked Baines where the girl would take him for the intercourse and Baines stated "upstairs" and again indicated that she would give him utmost satisfaction. Shortly thereafter the girl accepted her fee of ten dollars (in marked money) at the bar from Agent W and then went into the ladies room. Awaiting her return, Agent W and Baines again discussed the arrangements, during which Baines stated: "She is a champ. As I've said before, you're in for a thrill."

Agent W and the girl then left the tavern and she directed him to the floor immediately above the tavern. They were greeted by a woman with whom the girl made arrangements for use of a room in which they could engage in intercourse. The girl then led the agent into a room of the apartment fixed up as a barroom, containing a bar with stools, a back bar with a supply of bottles of whiskies and soft drinks and a "hi-fi" set. A man was stationed behind the bar, acting as bartender. The girl suggested that they have a drink before going to bed and, for that purpose, she and the agent took places at the bar. The bartender prepared a round of alcoholic beverage drinks for them and, as he was serving the drinks (and before any payment was made), other Division agents and an officer of the Paterson Police Department entered the apartment, whereupon the agents and the police officer identified themselves.

A supply of bottle beer was found in a refrigerator and in the kitchen and a cigar box on the back bar contained \$5.30 in currency. The girl orally denied that she had taken the agent to the apartment for sexual intercourse and, while admitting she had accepted money from the agent, claimed that she had borrowed \$5.00 from the agent and had flushed it down the bowl in the ladies room of the tavern before going upstairs.

Agents E and W then returned to the tavern where they identified themselves to Baines and to a man, later identified as John Tuck Allen, a bartender at the tavern. Orally, Baines denied having had any conversation about women or girls with Agent W, denied knowing anything about activities on the floor above the tavern but did admit that the profits from the licensed business were split between him and John Tuck Allen, despite the

fact that Allen was not listed in the application as a member of the corporation or the percentage arrangement disclosed in said application. A copy of the application for the license was not made available to the agents for their inspection. (Charge No. 5.) Later a copy of the application was obtained and examination thereof disclosed that the second floor of the building was not part of the licensed premises; that John Tuck Allen was not listed therein as a member of the corporation and that Question No. 31, which asks about any agreement to pay any part of the profits to anyone, was answered in the negative (Charge No. 3). Later, Baines, in a signed and sworn statement, confirmed the percentage arrangement with John Tuck Allen and also admitted that he did not notify the Board of Alcoholic Beverage Control for the City of Paterson, within requisite time, of changes of his residence address. (Charge No. 4.)

This corporate-licensee has no prior adjudicated record. However, it appears that, when Baines held a license in partnership with the aforementioned John Tuck Allen for premises 47 Bridge Street, Paterson, N. J., such license was suspended for five days by Resolution and Order of the Board of Alcoholic Beverage Control for Paterson adopted September 22, 1958. Division records indicate that the suspension was immediately lifted upon a showing that the license of the partnership had been transferred during pendency of the proceedings to Mambo, Inc.

The attorney for the licensee has supplemented the plea of non vult by written argument as to penalty (Rule 6 of State Regulation No. 16) in which he urges leniency on two points, viz., that (1) the corporate-licensee and Austin Baines are heavily in debt for a major part of the original purchase price of the business and (2) a bona fide purchaser has been obtained for the business.

It has long been established that solicitation for immoral purposes and the making of arrangements for illicit sexual intercourse cannot and will not be tolerated on licensed premises. The public is entitled to protection from these sordid and dangerous evils. In the instant case the licensee, through and by its major stockholder, participated in the making of the arrangements for illicit sexual intercourse, procured prostitutes ostensibly for said purposes and allowed, permitted and suffered the foul, filthy and obscene language and conduct by the patrons as described herein. In view of all of the facts and circumstances in this case and particularly on the basis of the unseemly conduct of lewdness, immoral activity and foul, filthy and obscene language and conduct; the only appropriate penalty is outright revocation of the license, even on a non vult plea and in the absence of any prior adjudicated record. Re 17 Club, Inc., Bulletin 949, Item 2; In Re 17 Club, Inc., 26 N.J. Super. 42 (Appl. Div. 1953); Re Sevak, Bulletin 1012, Item 2; Re Shaw, Bulletin 1028, Item 1; Re Club Hi Li, Inc., Bulletin 1198, Item 3. The matters urged by way of mitigation cannot affect the penalty in a matter involving violations of the kind in question. A licensee cannot allow a licensed business to be run in such a shockingly lewd manner and, when finally apprehended, be permitted to escape the inevitable by transfer of the license to a person who, he claims, is "respectable" and "will run a respectable tavern"; nor should the prospect of a licensee sustaining a substantial or even a total financial loss, through revocation of license, because for deviating from the course of revocation where such penalty is required. As was said in Benedetti v. Board of Commissioners of Trenton, Bulletin 1040, Item 1, affirmed in Benedetti v. The Board of Commissioners of the City of Trenton, et al., 35 N.J. Super. 30 (Appl. Div. 1955), reprinted in Bulletin

as to the possibility of renting rooms. Ferne told them that she had two available at \$5 a room and that no baggage or registration was required. When the agents expressed concern that the women might be seen in the premises, Ferne stated: 'You don't have to worry. You pull the car around the back and come in the side entrance. We are back in the woods here and nobody knows anything. This is a real hideaway.'

"On their second visit the agents explained to Ferne that the reason why the women weren't with them was because their husbands had arrived home unexpectedly, but that they expected to meet the women on the following Tuesday. They then inquired of Ferne if, in the event the women failed to keep that date, there would be anyone on the premises who would fill in for them. Ferne replied: 'You never know who is around here. I can't guarantee anything.' The agents left saying they would return on Tuesday.

"On their third and final visit to the licensed premises, the agents played pool with two female patrons, after which one of the agents said to Ferne: 'It looks like we aren't going to score with these broads here. I think we'll call our girl friends,' and, being assured by Ferne that two rooms were available, he went to the phone booth, pretended to call the women, rejoined his fellow agents at the bar and stated, in the presence of Ferne, that the girls would arrive in about a half hour. Two of the agents then left the premises, presumably to meet the girls, and Ferne told the other agents to go around to the side door and she would admit them. The agents complied and were admitted by Ferne, who escorted them to the second floor, showed them the rooms they were to occupy, accepted from each agent a five-dollar bill (the serial numbers of which had been previously recorded) and, at the agents' request, supplied each of them with two drinks of liquor and towels. Before Ferne left, one of the agents asked if she had any prophylactics and Ferne said that she would see if Al (the manager) had any. Being informed by Ferne that Al didn't have any, the agents went to their respective rooms. Shortly thereafter, each agent, in turn, was confronted in his room by the local chief of police and the agents who had left supposedly to get the girls. Answering an inquiry made in the presence of Ferne as to the reason why they engaged the rooms, the agents stated that they had arranged with Ferne to rent the rooms for the purpose of having illicit sexual relations with two married women. At this point, one of the agents asked for and received from Ferne the marked rental money and, when she was asked if she knew that the women whom the roomers awaited were not the agents' wives, she replied: 'Well, if it is their wives I don't know and if it wasn't it is none of my business.'

"Witnesses appearing for defendant were the licensee and her two employees, Ferne and Adolph Frugiuele. Ferne testified in substance that on the dates alleged she was employed as a barmaid in defendant's licensed premises and worked the 6:00 p.m. to 2:00 a.m. shift; that the agents on each of their visits conversed with her continually about girls and dates; that she thought they were 'kidding' and, on one occasion, she threw them a pack of matches on the cover of which was a picture of a scantily clad female and said: 'This is one of our dancing girls. They come out after 3 o'clock'; that on another occasion when the agents asked: 'Where are the girls?', she replied jokingly; 'They were here a couple of nights ago, you should have been here then'; that when the agents told her about the women's husbands arriving home unexpectedly, she said: 'Why don't you send the husbands a telegram in advance', and that when the agents asked if they could date the two females (mother and daughter) with

whom they had been playing a bowling machine, she said: 'I presume so, they are free, white and over 21'. With respect to the renting of the two rooms, she testified: 'Well, to be honest with you, I didn't know whether the two fellows were going to take it or four fellows were going to take it. When they ordered four drinks up, I sent up four drinks for four fellows and two fellows left and said they would be back, so what would you assume? Four men would take two rooms.' She admitted that one of the agents had asked her if she had any prophylactics and stated that she was embarrassed by his crudity and replied immediately: 'No, we don't have them.'

"Adolph Frugiuele testified in substance that on the dates alleged he was the manager of the defendant's licensed premises; that after Mrs. O'Neill, the licensee, employed him she moved from the inn because she, herself, had a nervous condition, and that her twelve-year-old son had a rheumatic heart and the children were 'hard to control'; that thereafter when the licensee saw that he was capable of running the business, she would visit the premises about once a week; that during the year he was employed as manager, 'I don't think that the rooms were rented four times'; that Ferne had permission to rent the rooms to registered couples; that about ten days prior to the first date alleged, the registration cards had been moved with some furniture to Mrs. O'Neill's new abode; that at about 11:00 p.m. on the last night alleged, he was awakened by Ferne and told that ABC men were there; that he joined the agents and the chief of police downstairs where he was informed of the violation and that, when the agents were searching the premises, he said to them: 'If you are running a place like that, you have to use laundry and you can check our laundry bill. We don't use any more than eight sheets a week.' He further testified that, 'We had two steady tenants, Ferne had a room and I had a room in which I laid down occasionally, and one change a week would be eight sheets.'

"Luella O'Neill testified in substance that she is a registered nurse and the mother of three children, one of whom is married; that the premises in question were devised to her by her uncle under whose name she operated the business in a representative capacity; that upon settlement of the Uncle's estate, the license was issued to her in 1952; that she moved from her home in East Orange to the licensed premises, but finding it difficult to raise her family and take care of the business, she hired Al who hired Ferne; that because of an invalid son and the serious illness of her married daughter, she again took up residence in East Orange; that once each week thereafter she visited the licensed premises at night and that when the charge herein was preferred against her, she discharged her manager and returned to the inn where she resides with her two minor children. She further testified that the licensed business is her principal source of income; that she never saw or permitted any wrongdoing on the premises and that, although she still has faith and confidence in Ferne, she will have to dispense with her services because 'the business has simply gone' due to the notoriety occasioned by the charge preferred against her.

"Having carefully considered the evidence herein, I find that the testimony of the agents portrays a true picture of the events which occurred on the licensed premises on the dates alleged and I conclude that the Division has established the truth of the charge herein by more than a fair preponderance of the believable evidence. See In Re Schneider, 12 N.J. Super 449. Because the licensee must be held fully accountable for her agents' acts (Kravis v. Hock, 137 N.J.L. 252), I recommend that defendant be adjudged guilty as charged and, in view of the mitigating circumstances appearing in this case, which warrant a reduction of the penalty ordinarily imposed for similar infractions, I recommend further that defendant's license be suspended for a

period of one hundred twenty days. Re Rossini, Bulletin 1088, Item 3."

No exceptions to the Hearer's Report were filed within the time limited by Rule 6 of State Regulation No. 16. Having carefully considered the facts and circumstances herein, I concur in the Hearer's findings and conclusion and adopt his recommendation.

Accordingly, it is, on this 4th day of June 1959,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of Chester Township to Mrs. Luella O'Neill, t/a Muskrat Inn, for premises on Hillside Road, Chester Township, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m., Monday, June 15, 1959; and it is further

ORDERED that any renewal for the 1959-60 licensing year or transfer of said license shall be and remain under suspension until 2:00 a.m., Tuesday, October 13, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 55 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

BROAD AND KINNEY BAR, INC.
1011 Broad Street
Newark 2, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-377, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Samuel Poleshuck, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it possessed on its 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.

On February 27, 1959, two ABC agents tested the licensee's open bottles of alcoholic beverages (126 bottles) and seized twenty-one of such bottles because they appeared to be off in proof and color. Subsequent analysis by the Division's chemist disclosed that the contents of eighteen of said bottles, when compared with the samples of the genuine product of the labeled brands, varied substantially in acids, solids, or both.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifty-five days. Cf. Re Gavlak, Bulletin 716, Item 7, and Re Auston, Bulletin 1281, Item 2. Five days will be remitted for the plea entered herein, leaving a net suspension of fifty days.

Accordingly, it is, on this 9th day of June, 1959,

ORDERED that Plenary Retail Consumption License C-377, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Broad and Kinney Bar, Inc., for premises 1011 Broad Street, Newark, be and the same is hereby suspended for the balance of its term, effective at 2 a.m. Tuesday, June 16, 1959; and it is further

ORDERED that any renewal or transfer of said license shall be and remain under suspension until 2 a.m. Wednesday, August 5, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - ORDER REDUCING SUSPENSION PREVIOUSLY IMPOSED FROM 50 TO 40 DAYS.

In the Matter of Disciplinary Proceedings against

THE NEW FRENCH QUARTERS, INC.
517 Paterson Plank Road
Union City, N. J.

AMENDED ORDER

Holder of Plenary Retail Consumption License C-168, issued by the Board of Commissioners of the City of Union City.

Defendant-licensee, by Anthony S. Scarnecchia, President Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

On May 19, 1959, I entered an order suspending defendant's license for fifty days after it pleaded non vult to Charge 1 which alleged that it permitted the sale of alcoholic beverages to three minors, and Charge 2 which alleged that it employed minors who held no employment permits.

The records of the Division indicated that effective January 30, 1959, the local issuing authority had suspended defendant's license for ten days for sale to a minor, permitting a brawl and conducting business during prohibited hours. Hence it appeared that the violation set forth in Charge 1 herein was a second violation within five years for selling to minors, and I suspended defendant's license for thirty-five days on said charge. After entry of the order herein defendant presented evidence that in the prior disciplinary proceedings the local issuing authority had dismissed the charges concerning sale to a minor and permitting a brawl and had suspended defendant's license for ten days solely for conducting business during prohibited hours. It thus appearing that the violation set forth in Charge 1 herein was a first instead of a second violation for selling to minors, I shall reduce the suspension on said charge from thirty-five to twenty-five days. The net suspension imposed on both charges herein will, therefore, be reduced from fifty to forty days.

Accordingly, it is, on this 3rd day of June, 1959,

"ORDERED that the order heretofore entered herein be amended to read as follows:

"ORDERED that Plenary Retail Consumption License C-168, issued by the Board of Commissioners of the City of Union City to The New French Quarters, Inc., for premises 517 Paterson Plank Road, Union City, be and the same is hereby suspended for the balance of its term, effective at 3 a.m. Monday, June 1, 1959; and it is further

"ORDERED that any renewal or transfer of said license shall be and remain under suspension until 3 a.m. Saturday, July 11, 1959."

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against

RUDOLPH DOORNBOS
t/a RUDY'S CLUB
45 Bridge Street
Paterson 1, N. J.

)
)
) CONCLUSIONS
) AND ORDER
)

Holder of Plenary Retail Consumption License C-89, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

Rudolph Doornbos, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to two minors and permitted the consumption of such beverages by said minors in and upon his licensed premises, in violation of Rule 1 of State Regulation No. 20.

On Friday, May 1, 1959 at about 11:58 p.m., an ABC agent at defendant's licensed premises observed Carl ---, age 17, and John ---, age 19, each being served with a seven-ounce bottle of beer by the licensee who was acting as bartender. The licensee did not question the minors as to their age or ask either of them to sign any written representation thereof. When the agent revealed his identity, the licensee verbally admitted such sale to the minors.

Defendant has a prior adjudicated record. Effective March 24, 1958, defendant's license was suspended for ten days on a nuisance charge. Re Doornbos, Bulletin 1221, Item 4. I shall suspend defendant's license for twenty days, the minimum suspension for sale to two minors, one of whom is only 17 years of age, to which will be added five days for the dissimilar violation within the past five years, making a total suspension of twenty-five days. Cf. Re Entertainment Enterprises, Inc., Bulletin 1269, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 2nd day of June 1959,

ORDERED that Plenary Retail Consumption License C-89, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Rudolph Doornbos, t/a Rudy's Club, for premises 45 Bridge Street, Paterson, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m., Tuesday, June 9, 1959, and terminating at 3:00 a.m., Monday, June 29, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATES FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON RESUMPTION OF BUSINESS.

In the Matter of Disciplinary Proceedings against

THE ALOHA, INC.
t/a THE ALOHA, INC.
104 - 4th Avenue
Belmar, N. J.

ORDER

Holder of Seasonal Retail Consumption License CS-6, issued by the Board of Commissioners of the Borough of Belmar.

BY THE DIRECTOR:

By order dated September 18, 1958, I suspended defendant's license for fifteen days. The order provided that the effective dates for said suspension would be fixed by further order when defendant resumed business after obtaining a renewal of its Seasonal Retail Consumption License. See Bulletin 1246, Item 10.

It appearing that defendant has obtained a renewal of its license for the summer season for the priod commencing May 1, 1959, and it further appearing to my satisfaction that defendant has resumed business under said license;

It is, on this 2nd day of June 1959,

ORDERED that Seasonal Retail Consumption License CS-6, issued by the Board of Commissioners of the Borough of Belmar to The Aloha, Inc., t/a The Aloha, Inc., for premises 104 - 4th Avenue, Belmar, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m., Tuesday, June 9, 1959, and terminating at 2:00 a.m., Wednesday, June 24, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

ACTIVITY REPORT FOR JUNE, 1959

8. ARRESTS:		
Total number of persons arrested	- - - - -	49
Licenseses and employees	- - - - - 25	
Bootleggers	- - - - - 24	
SEIZURES:		
Motor vehicles - cars	- - - - -	3
- trailers	- - - - -	1
Stillis - 50 gallons or under	- - - - -	1
Mash - gallons	- - - - -	28.75
Distilled alcoholic beverages - gallons	- - - - -	300.87
Wine - gallons	- - - - -	11.31
Brewed malt alcoholic beverages - gallons	- - - - -	28.13
RETAIL LICENSEES:		
Premises inspected	- - - - -	693
Premises where alcoholic beverages were gauged	- - - - -	665
Bottles gauged	- - - - -	12,638
Premises where violations were found	- - - - -	65
Violations found	- - - - -	107
Unqualified employees	- - - - - 53	Other mercantile business - 2
Application copy not available	- - - - - 18	Disposal permit necessary - 1
Reg. #38 sign not posted	- - - - - 15	Other violations - 15
Prohibited signs	- - - - - 3	
STATE LICENSEES:		
Premises inspected	- - - - -	25
License applications investigated	- - - - -	17
COMPLAINTS:		
Complaints assigned for investigation	- - - - -	450
Investigations completed	- - - - -	469
Investigations pending	- - - - -	161
LABORATORY:		
Analyses made	- - - - -	340
Refills from licensed premises - bottles	- - - - -	84
Bottles from unlicensed premises	- - - - -	40
IDENTIFICATION:		
Criminal fingerprint identifications made	- - - - -	17
Persons fingerprinted for non-criminal purposes	- - - - -	411
Identification contacts made with other enforcement agencies	- - - - -	275
Motor vehicle identifications via N. J. State Police teletype	- - - - -	5
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	- - - - -	12
Violations involved	- - - - -	17
Sale during prohibited hours	- - - - - 8	Employee w/o identification card (local reg.) - 1
Sale to minors	- - - - - 4	Sale to non-members by club licensee - 1
Failure to close premises during prohibited hours	- - - - - 2	Sale outside scope of license - 1
Cases instituted at Division	- - - - -	35
Violations involved	- - - - -	48
Sale to minors	- - - - - 9	Possession of contraceptives - 1
Possessing liquor not truly labeled	- - - - - 8	Accepting delivery while in default - 1
Sale during prohibited hours	- - - - - 7	Conducting business as a nuisance - 1
Fraud and front	- - - - - 5	Sol'r furnishing unlawful inducements to retailer - 1
Hindering investigation	- - - - - 4	Licensee working while intoxicated - 1
Permitting gambling (vegering)	- - - - - 2	Permitting foul language on premises - 1
Solicitor violating terms of permit	- - - - - 2	Permitting lottery activity on premises - 1
Solicitor engaging in conduct prohibited to employer	- - - - - 2	Purchase from improper source - 1
Possession of indecent matter	- - - - - 1	
Cases brought by municipalities on own initiative and reported to Division	- - - - -	24
Violations involved	- - - - -	35
Sale to minors	- - - - - 13	Employee working while intoxicated - 2
Sale during prohibited hours	- - - - - 6	Permitting persons of ill repute on prem. - 2
Permitting brawl on premises	- - - - - 4	Permitting immoral activity on premises - 1
Conducting business as a nuisance	- - - - - 3	Sale to intoxicated persons - 1
Hindering investigation	- - - - - 3	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	- - - - -	66
Appeals	- - - - - 14	Seizures - 6
Disciplinary proceedings	- - - - - 40	Applications for license - 1
Eligibility	- - - - - 5	
STATE LICENSES AND PERMITS ISSUED:		
Total number issued	- - - - -	4,447
Licenses	- - - - - 5	Social affair permits - 446
Employment permits	- - - - - 453	Miscellaneous " - 130
Solicitors'	- - - - - 2,743	Transit insignia - 451
Disposal "	- - - - - 162	Transit certificates - 57

Dated: July 3, 1959

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - SALE TO NON-MEMBERS - SALE BY CLUB LICENSEE FOR OFF-PREMISES CONSUMPTION - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JAMES ELMS LODGE OF ELKS #1180, I.B.P.O.E. OF W. 265 Chestnut Street Passaic, N. J.)

CONCLUSIONS AND ORDER

Holder of Club License CB-6, issued by the Board of Commissioners of the City of Passaic.)

James E. Abrams, Esq., Attorney for Defendant-licensee. David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On May 3, 1959, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to a person not a bona fide member of your club or a bona fide guest of such member; in violation of Rule 8 of State Regulation No. 7.
"2. On April 27, 1959 and on divers occasions prior thereto, you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages other than for consumption on the licensed premises; in violation of Rule 9 of State Regulation No. 17."

During the course of a retail inspection of defendant's licensed premises on April 28, 1959, an ABC agent found a book in which were entered the names of persons who, in addition to the purchase of drinks of alcoholic beverages, had purchased on credit various brands of alcoholic beverages in original containers, mostly half pints and pints. John Brown, Chairman of the House Committee, when questioned by the agent fully cooperated and readily admitted that some of the bottles of alcoholic beverages purchased by members in original containers were for consumption off the licensed premises. Thaddeus W. Hart, Exalted Ruler, stated that he was not aware that alcoholic beverages could not be sold to members by the defendant-lodge in original containers for off-premises consumption. Ignorance of the law or regulations affords no excuse. Re Broodwinner, Bulletin 477, Item 3.

On May 3, 1959, an agent who was not a member of defendant-lodge or a bona fide guest of a member, was served a bottle of beer by Fred Hill (past Exalted Ruler of defendant), who was tending bar at the time. A short time thereafter another agent entered the premises and, after identifying himself to the bartender, questioned him concerning the membership status of his fellow agent. The bartender admitted the sale and service of the bottle of beer to the agent.

Defendant has no prior adjudicated record. In imposing penalty, I shall give consideration to the frank and honest

admission of Brown that there were times when alcoholic beverages were sold to members for off-premises consumption and his cooperation in fully explaining the entries in defendant's books. Under the circumstances, I shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 9th day of June, 1959,

ORDERED that Club License CB-6, issued by the Board of Commissioners of the City of Passaic to James Elms Lodge of Elks #1180, I.B.P.O.E. of W., for premises 265 Chestnut Street, Passaic, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m., Tuesday, June 16, 1959, and terminating at the expiration of the license, namely, midnight, June 30, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against CHARLES SANDERLIN 587 Ocean Avenue Jersey City, N. J. Holder of Plenary Retail Consumption License C-56, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS AND ORDER

Charles Sanderlin, Defendant-licensee, Pro se.
William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he possessed on his 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.

On April 23, 1959 an ABC agent tested 38 open bottles and seized four bottles of alcoholic beverages on the defendant's licensed premises because their contents appeared to be off in proof and color. Subsequent analysis by the Division chemist disclosed that the contents of the aforesaid four bottles, when compared with samples of the genuine product of the labeled brands, all varied substantially in solids and the contents of one bottle also varied in acids.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days, the minimum suspension in a "refill" case involving four bottles. Re Grower, Bulletin 1263, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 2nd day of June 1959,

ORDERED that Plenary Retail Consumption License C-56, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Charles Sanderlin, for premises 587 Ocean Avenue, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m., Tuesday, June 9, 1959, and terminating at 2:00 a.m., Wednesday, June 24, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

11. STATE LICENSES - NEW APPLICATION FILED.

JOHN LUTZ,
t/a LUTZ BEVERAGE COMPANY
12 Ludlow Street
Jersey City, N. J.

Application filed July 8, 1959 for State
Beverage Distributor's license.


WILLIAM HOWE DAVIS
DIRECTOR