

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

Gossweiler

February 25, 1963

BULLETIN 1495

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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 1495

February 25, 1963

1. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED
FOR 15 DAYS.

In the Matter of Disciplinary
Proceedings against

Peter Paul Lagomarsino, Jr.
t/a Barrington Cafe
101 Clements Bridge Road
Barrington, New Jersey

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consump-
tion License C-2, issued by the
Borough Council of the Borough
of Barrington.

Leonard H. Savadove, Esq., Attorney for 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 charge:

"On June 5, 1962, 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., Howard ---, age 17 and James ---,
age 18 and allowed, permitted and suffered the con-
sumption of alcoholic beverages by such persons in
and upon your licensed premises; in violation of
Rule 1 of State Regulation No. 20."

"At the hearing held herein, the Division called as its
witnesses Dante DeFiore, John ---, William ---, James R. --- and
an ABC agent hereinafter referred to as Agent S.

"Mr. DeFiore testified that for a period of three years
prior to June 1962, he taught physics at Pitman High School, in
Pitman, New Jersey; that he knew Howard and James as student at
the high school; that they were members of the graduating class
of June 1962, and that from a group picture of such class (S-1 in
evidence) he pointed out both minors, neither of whom was present
at the hearing.

"At this juncture in the proceedings, the prosecutor
announced that he was awaiting the arrival by mail of birth certi-
ficates of the minors and the attorney for the licensee stipulated
that he had no objection to the Division's placing in evidence,
subsequent to the hearing herein, certified copies of the birth
certificates of the minors to replace two written statements (S-2
and S-3 in evidence) wherein the principal of the school set
forth that the school records reflect that James was born on July
4, 1943 and that Howard was born on December 14, 1944. On Novem-
ber 2, 1962, the attorney for the Division submitted a certified
copy of the birth record of James, furnished by the New Jersey
Registrar of Vital Statistics, to replace Exhibit S-3. Aforesaid

record discloses that James was born in Woodbury on July 4, 1943. No birth record was submitted for Howard.

"John (19 years of age) testified that he, James and Howard attended Pitman High School; that they were graduates of the class of June 1962; that the photographs of James and Howard appearing above their respective names in the group picture of the class (S-1) are those of James and Howard; that on June 5, 1962 at about 10:00 P. M. he, James and Howard, together with James R., William and Howard C., arrived in front of the licensed premises in a car driven by Howard C.; that Howard and James left the car and entered the tavern; that shortly thereafter he, followed by Howard C., joined Howard and James seated at the bar; that he sat alongside of James; that he observed James in possession of a bottle of Piel's beer and consume its contents; that he did not notice Howard drinking any alcoholic beverages; that James ordered, paid for and was served a second bottle of beer (with its cap removed) by the bartender, following which he and his three companions, with James carrying the opened bottle of beer, returned to the car.

"On cross examination, John reiterated the pertinent parts of his direct testimony and further testified that the purpose of the visit to the licensed premises was to purchase beer and that he is unable to recognize Dudley Davenport, Anthony Lagomarsino (bartenders), Peter Paul Lagomarsino, Jr. (licensee) and Annmae Lagomarsino (wife of licensee) (all seated in the hearing room) as persons who were in the licensed premises on the night in question.

"William (18 years of age) corroborated the testimony of John in all respects except as to the events which transpired in the licensed premises and further testified that he was a member of the aforesaid class of 1962; that he had known James and Howard for four years; that he was familiar with the licensed premises; that he had requested James to bring him a bottle of beer when he returned from the licensed premises; that he observed Howard C., Howard, John and James in possession of a bottle of beer emerge from the licensed premises; that upon their return to the car, James gave him the bottle of beer; that the bottle was cold and full and that he had consumed its contents.

"On cross examination, William testified that on June 5, 1962, he was 17 years old; that some of the boys in his class were 20 years old; that on the night in question, he and his aforesaid five companions were returning from a senior class banquet at Moorestown; that when they arrived in Barrington, they drove to the licensed premises at the suggestion of James; that James had stated that he had been served alcoholic beverages at the licensed premises on previous occasions; that they did not visit any other licensed premises on their ride between Moorestown and Barrington and that, following the visit to the licensed premises, they drove to their respective homes.

"On further cross examination, William testified that on the following day he and his companions were summoned to the principal's office 'about raising Cain at the banquet'; that they had informed the principal in the presence of Mr. DeFiore that at 7:00 P. M. on June 5, 1962, prior to attending the banquet, John had obtained some beer at a tavern on the Black Horse Pike and that at 10:00 P.M., after leaving the banquet, beer was purchased at the licensed premises as hereinabove testified.

"James R. (19 years of age) substantially corroborated the testimony of William and further testified that James and Howard were his classmates at Pitman High School; that he had known them for a number of years and identified them as the individuals whose photographs appear in the aforesaid group picture above their respective names.

"On cross examination, James R. testified that he and his aforesaid companions left the banquet shortly before 10:00 P. M. on June 5, 1962; that they had arrived in front of the licensed premises about 10:00 P.M. and that James and Howard are presently attending college, the former in the midwest and the latter in Virginia.

"Agent S testified that on July 2, 1962, at 4:00 P. M. and again at 7:15 P. M., he and another ABC agent drove to the licensed premises; that on their first trip, James and William accompanied and directed them to the licensed premises; that prior thereto, James and William had given him a description of the exterior of the premises which corresponded with his observation of the same; that on their second visit, John rode with and directed them to the licensed premises and that they found the premises closed on both occasions.

"At the close of the Division's case, counsel for the licensee moved to dismiss the charge herein on the ground that the evidence adduced by the Division was insufficient to sustain the same. Since the Division has failed to produce any competent proof of Howard's age, plus the fact that there is no evidence that Howard was served or consumed any alcoholic beverages at the licensed premises on the night in question, I recommend that so much of the charge as pertains to Howard be dismissed. With respect to the charge based on the sale of alcoholic beverages to and the consumption thereof by James, it is quite clear that the Division has presented ample competent evidence in support of the same. Hence, I recommend that the motion be denied in so far as it deals with James.

"John D. Davenport, on behalf of the licensee, testified that on the night of June 5, 1962, he was tending bar at the licensed premises; that he does not recognize John (seated in the hearing room) as a patron of the licensed premises on the night in question and that, if John were in the premises as testified, he would be able to identify him.

"On cross examination, Mr. Davenport testified that his hours of employment are from 4:00 P. M. to 1:00 A. M. six days a week from Tuesday to Monday; that on the night of June 5th aforesaid, Anthony Lagomarsino, the licensee's brother, and he were tending bar; that he has no specific recollection of the night of June 5th aforesaid; that he dispenses bottled and draft beer; that he is familiar with the patronage of the licensed premises and that he did not remember the patrons who visited the licensed premises on the night in question.

"Anthony Lagomarsino, on behalf of the licensee, testified that on the night of June 5, 1962, he and Mr. Davenport were tending bar at the licensed premises; that he does not recall seeing John at the licensed premises; and that the first time he saw John was at the hearing held herein.

"On cross examination, Mr. Lagomarsino testified that he has no specific recollection of the night of June 5th aforesaid; that he takes care of one section of the bar and Mr. Davenport another; and that he does not know whom or what Mr. Davenport served at 10:00 P. M. on the night in question.

"The attorney for the licensee has submitted a memorandum in which he sets forth extracts of the testimony, from which it is argued:

"A. Unless the Division has submitted, as stipulated, birth certificates of James and Howard, the charge should be dis-

missed. As hereinabove indicated, the Division has placed in evidence a certified copy of the birth record of James showing that he was 18 years of age on the date of the alleged violation. In view of my aforesaid recommendation in so far as the charge pertains to Howard, no further comment is necessary.

"B. The Division's proofs were not based on the best evidence in that it failed to produce James and Howard at the hearing and failed to account for their absence. The testimony discloses that both James and Howard were not within the jurisdiction of the State of New Jersey. The law is clear that unlawful sale of alcoholic beverages may be proved by witnesses other than the purchaser (Re Aunt Kate's, Inc., Bulletin 1464, Item 5; Re DiMarzo, Bulletin 843, Item 5; Re Theodore's, Inc., Bulletin 843, Item 6) and by circumstantial evidence (Re Daniels, Bulletin 1204, Item 9).

"C. There was no identification of the bartender who made the alleged sale on the night in question and the description given by John of the person who made the sale to James does not fit any of the licensee's bartenders. It has long been established that the failure to identify the particular employee making the sale or service of alcoholic beverages to a minor is not fatal in disciplinary proceedings, provided it be established that the minor purchased, had served to him or was permitted to consume an alcoholic beverage in the licensed premises. Re La Corte, Bulletin 469, Item 1; Re Cohen, Bulletin 495, Item 6; Re Dante, Bulletin 771, Item 9; Re Kurinsky and Ancel, Bulletin 1100, Item 7; Re Keller's Tavern and Grove, Inc., Bulletin 1245, Item 4; Ott's Incorporated v. Division of Alcoholic Beverage Control (App. Div.) decided March 29, 1962, not officially reported, reprinted in Bulletin 1444, Item 1.

"I have carefully considered the testimony adduced herein, together with the exhibits and the brief filed on behalf of the licensee, and find that John, William and James R. gave an accurate and truthful account of what transpired in this case and am unable to find any inconsistencies or defects in their testimony. There is no claim that these witnesses had any motive to accuse the licensee unjustly nor can I conceive that they would conspire against him. With respect to so much of the charge based on the sale of alcoholic beverages to and the consumption thereof by James, I conclude that the preponderance of the believable evidence presented established the guilt of the licensee and it is recommended that such a finding be made.

"With respect to so much of the charge alleging that the licensee sold alcoholic beverages to Howard, I recommend its dismissal for the reasons hereinabove set forth.

"The licensee has a prior adjudicated record. Effective June 12, 1944, his license was suspended by the Director for ten days for a 'front' violation. Re Lagomarsino, Bulletin 622, Item 6. Since this dissimilar violation occurred more than five years ago, it should not be considered in fixing the penalty herein. Re Restivo, Bulletin 1480, Item 2. It is further recommended, therefore, that an order be entered suspending the license for fifteen days, the minimum penalty for sale of alcoholic beverages to an 18-year-old minor. Re Seery, Bulletin 1478, Item 12; Re Lincoln Inn, Bulletin 1467, Item 2."

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

Having carefully considered the record herein, including the exhibits, the transcript of the proceedings, the memorandum filed with the Hearer by licensee's attorney and the Hearer's

Accordingly, it is, on this 3rd day of January 1963,

ORDERED that plenary retail consumption license C-2, issued by the Borough Council of the Borough of Barrington to Peter Paul Lagomarsino, Jr., t/a Barrington Cafe, for premises 101 Clements Bridge Road, Barrington, be and the same is hereby suspended for fifteen (15) days, commencing at 6 a.m. Thursday, January 10, 1963, and terminating at 6 a.m. Friday, January 25, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary
Proceedings against

Arthur and June Saunders
t/a Artie's Place
512 South 19th Street
Newark, New Jersey

CONCLUSIONS

AND

Holders of Plenary Retail Consump-
 tion License C-63, issued by the
 Municipal Board of Alcoholic
 Beverage Control of the City of
 Newark.

ORDER

Licenseses, Pro se.

David S. Piltzer, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licenseses plead non vult to a charge alleging that on December 3, 1962, they possessed an alcoholic beverage in one bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Englewood Tavern & Restaurant, Inc., Bulletin 1485, Item 8.

Accordingly, it is, on this 7th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-63, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Arthur and June Saunders, t/a Artie's Place, for premises 512 South 19th Street, Newark, be and the same is hereby suspended for five (5) days, commencing at 2:00 A. M. Monday, January 14, 1963 and terminating at 2:00 A. M. Saturday, January 19, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - SALE TO INTOXICATED PERSON - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

D. E. L. Corp.)
519-525 Paterson Plank Road)
Union City, New Jersey)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-11, issued by the Board of Commissioners of the City of Union City.)

ORDER

Licensee, by Silvestro Castelli, President, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to charges alleging that on November 2, 1962, it sold drinks of alcoholic beverages to (1) a minor, age 19, and (2) an intoxicated adult, both in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended on the first charge for fifteen days (Re Boyer, Bulletin 1486, Item 4) and on the second charge for twenty days (Re Subar, Inc., Bulletin 1481, Item 5), or a total of thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days.

Accordingly, it is, on this 7th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-11, issued by the Board of Commissioners of the City of Union City to D. E. L. Corp. for premises 519-525 Paterson Plank Road, Union City, be and the same is hereby suspended for thirty (30) days, commencing at 3:00 A. M. Monday, January 14, 1963, and terminating at 3:00 A. M. Wednesday, February 13, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary
 Proceedings against

Leo and Lillian Rosamilia
 t/a Uncle Leo's
 316 - 14th Avenue
 Newark 3, N. J.

CONCLUSIONS

AND

ORDER

Holders of Plenary Retail Consump-
 tion License C-514, issued by the
 Municipal Board of Alcoholic
 Beverage Control of the City
 of Newark.

David B. Braelow, Esq., Attorney for Licensees.
 David S. Piltzer, Esq., Appearing for the Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on
 December 7, 1962, they possessed an alcoholic beverages in one
 bottle bearing a label which did not truly describe its contents,
 in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for
 ten days, with remission of five days for the plea entered,
 leaving a net suspension of five days. Re Englewood Tavern &
 Restaurant, Inc., Bulletin 1485, Item 8.

Accordingly, it is, on this 7th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-514,
 issued by the Municipal Board of Alcoholic Beverage Control of
 the City of Newark to Leo and Lillian Rosamilia, t/a Uncle Leo's,
 for premises 316 - 14th Avenue, Newark, be and the same is hereby
 suspended for five (5) days, commencing at 2:00 A. M. Monday,
 January 14, 1963, and terminating at 2:00 A. M. Saturday, January
 19, 1963.

WILLIAM HOWE DAVIS
 DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SOLICITATION FOR PROSTITUTION -
INDECENT LANGUAGE - SALE IN VIOLATION OF STATE REGULATION
NO. 38 - NUISANCE - LICENSE SUSPENDED FOR 85 DAYS - NO
REMISSION FOR PLEA ENTERED AT HEARING.

In the Matter of Disciplinary
Proceedings against

315 Halsey, Inc.
t/a Club Reno
315 Halsey Street
Newark 2, N. J.

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption
License C-238, issued by the Municipal
Board of Alcoholic Beverage Control of
the City of Newark.

Thomas E. Durkin, Jr., Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

At the hearing herein, licensee pleaded non vult to charges alleging that (1) on April 16-17 and 23-24, 1962, it permitted the making of overtures and arrangements for illicit sexual intercourse, in violation of Rule 5 of State Regulation No. 20, (2) on April 23-24, 1962, it permitted foul, filthy and obscene language by a patron on the licensed premises, in violation of Rule 5 of State Regulation No. 20, (3) on April 24, 1962, at 1:35 A. M. it sold a quart bottle of whisky for off-premises consumption, in violation of Rule 1 of State Regulation No. 38, and (4) on April 16-17 and 23-24, 1962, it conducted the licensed place of business as a nuisance, in violation of Rule 5 of State Regulation No. 20.

Absent prior record, the license will be suspended on the first charge for sixty days (Re Howard Tavern, Inc., Bulletin 1456, Item 2), on the second charge for ten days (Re Subar, Inc., Bulletin 1481, Item 5), on the third charge for fifteen days (Re Boyer, Bulletin 1486, Item 4), and no additional penalty will be imposed on the fourth charge since the elements thereof are comprised in the first three charges, making a total suspension of eighty-five days, with no remission for the plea entered at the hearing. Re Roosevelt Hotel, Inc., Bulletin 1470, Item 1.

Accordingly, it is, on this 7th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-238, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to 315 Halsey, Inc., t/a Club Reno, for premises 315 Halsey Street, Newark, be and the same is hereby suspended for eighty-five (85) days, commencing at 2:00 A.M. Monday, January 14, 1963, and terminating at 2:00 A. M. Tuesday, April 9, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - NUISANCE (APPARENT HOMOSEXUALS) -
PRIOR RECORD DISREGARDED BECAUSE OF CHANGE IN OFFICERS AND
STOCKHOLDERS - LICENSE SUSPENDED FOR 40 DAYS.

In the Matter of Disciplinary
Proceedings against

Club Delite, Inc.
76 Bank Street
Newark, New Jersey,

CONCLUSIONS

AND

Holder of Plenary Retail Consumption
License C-22, issued by the Municipal
Board of Alcoholic Beverage Control
of the City of Newark.

ORDER

Joseph A. D'Alessio, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Licensee pleaded not guilty to charges as follows:

- '1. On April 28, May 2 and 4, 1962, 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 persons who appeared to be homosexuals, e.g., females impersonating males, in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; 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.
- '2. On May 4, 1962, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Elizabeth ---, age 19, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.'

"When the matter came on for hearing, on motion of the Division's attorney, the second charge was nolle prossed on the ground that the Division chemist's analysis of the drink served to the minor and seized by ABC agents indicated that it was a non-alcoholic beverage.

"To substantiate the first charge the Division produced Agents R and S who investigated the licensed premises. Their testimony on direct examination is substantially as follows:

"On each of the dates alleged in the charges both agents entered the licensed premises at about 9 p.m., seated themselves at or near the center of the bar and remained there until shortly before midnight. Jerry Muola tended bar on April 28 and May 2, 1962, and Jerry DelMauro on May 4, 1962. Joseph Brango (president of the corporate licensee) was present on the three occasions, stationing himself at the rear end of the bar. During their stay on the dates alleged the agents observed among the patrons thirteen, thirteen and sixteen females, respectively, who

attracted their attention. Some had closely cropped hair, combed straight back or parted. Some wore men's type polo shirts or men's shirts which buttoned on the right side. Some had men's type trousers which zippered in front. None wore facial make-up. Some had large billfolds in their back pockets. Some had men's type wristwatches. Some drank beer from bottles. Some danced together, the leaders resting their heads upon the necks of their partners, whose ears they occasionally kissed. Some rubbed their lower torsos against the buttocks of others at the bar, and all of them stode with a mannish gait and congregated at the rear end of the bar in the vicinity of Brango. Considering their attire, mannerisms and demeanor, they appeared to the agents to be lesbians. On one occasion, when four of the apparent lesbians entered the premises, a female who was conversing with Brango exclaimed, 'Look at those damn lesbians' and Brango said, 'Oh, you think there is some now. You should have seen it the other night.'

"On their last visit Agent S said to DelMauro, 'Gee, we certainly hate to bring our girl friends in here with all these lesbians around' and DelMauro said, 'Oh, you heard about it, too. You can't trap any of the single broads in here with all of these lesbians.'

"Shortly thereafter, when four males entered with an apparent lesbian, DelMauro complied with the agents' request to move their drinks to the front end of the bar, so they 'could get away from the lesbian and fags,' and, when Agent S asked how long the lesbians had been coming in the place, DelMauro replied, 'About four weeks, *** I don't like them myself, but the boss says it is all right to serve them.'

"At this point the agents identified themselves to Brango and DelMauro, pointed out several of the females whom they had been observing and told Brango that they were charging him with using the premises as a 'hangout' for lesbians. Brango said that the local police had told him that it was all right to have them in there so long as they didn't act up. When the agents informed him that the females had been kissing one another, he said, 'I didn't see it. Look, you just tell me about it this time, and I will take care of it.' At the time the agents identified themselves a man (Allan Trent), who had been seated at the front of the bar, approached them and, when asked who he was, said that his wife was a shareholder of the corporate licensee and that he was there to protect her interests.

"Brango did not request the apparent lesbians to leave, and they were still on the premises when the agents departed.

"Witnesses appearing for the corporate licensee were Allan Trent, Joseph Brango and three females who will be referred to hereinafter as Judy, Dorothy and Janet.

"Allan Trent testified in substance that he is the president of a jewelry manufacturing concern and has no connection with the corporate licensee; that he visits the licensed premises nightly to look after the interests of his wife who holds fifty per cent. of the corporate stock; that he didn't see the agents in the premises on May 2, 1962; that on May 4, 1962, he arrived at the tavern between 11:15 and 11:30 p.m. and saw two men (presumably the agents) enter the premises a couple of minutes before he entered; that he was five feet inside the door when Agent S took him under the arm and said, 'Hello, Al. I am the ABC'; that he asked what he could do for him and Agent S said, 'You have lesbians', all the while 'holding me under the arm as though we were buddies for ten years';

that Agent S walked him to the rear where he called Brango and introduced him to the agents; that Agent S repeated for Brango what he had told him and Brango said, 'You see a nice place here. You don't see any trouble. This is the same the four years I have been here,' and that Agent S said, 'I'm not getting you for anything; just for having them here.' Trent further testified that the three females who were seated in the hearing room were among the patrons in the tavern on the night of May 4, 1962.

"Brango testified in substance that he is president of the corporate licensee and day bartender, and that he tends bar at night when they are busy; that the only time he saw the agents was on May 4 when Trent told him to come to the rear and he was introduced to the agents; that Agent S said, 'You know, you have lesbians in the place' and he asked, 'What lesbians?' and, when Agent S said, 'The girls here', he replied, 'They're not lesbians so far as I know', and that Agent S said, 'I'll have to write you up.' He further testified that he was on the premises on the other dates alleged; that on May 4 he arrived about 9:30 p.m., at which time there were about thirty-five patrons, 'half and half'; that at the rear end of the bar there were five or six girls who had been bowling that night and had on 'bowling equipment'; that he doesn't allow dancing on the premises; that he didn't see any of the females act in the manner testified to by the agents and he denied that he told the agents that the local police said it was all right to have lesbians on the premises so long as they didn't 'act up.'

"Judy testified in substance that she is employed as a color chemist by a plastic manufacturer; that on the night of May 4 she and five other girls had been bowling and that they arrived at the licensed premises about 10 p.m.; that they went to the rear end of the bar because the stools at the front end were occupied; that she was wearing slacks, blouse and loafers but not lipstick or rings, and that her hair was curled; that she is not a lesbian; that she didn't see any dancing, petting or loving engaged in by any of the women, and that no one conducted himself or herself in an improper manner.

"Dorothy testified in substance that she is employed by an automobile agency; that on Friday, May 4, 1962, she entered the premises with Judy and the other girls; that she wore a pair of 'Mister Pants' (girl's tapered slacks with back pockets), blouse with rolled-up sleeves, sneakers, eye make-up, powder and light lipstick; that she is not a lesbian and didn't know what a lesbian was until she heard the agents' testimony; that she shares an apartment with Judy to cut down expenses; that she didn't see anything improper in the Club Delite while she was there; that none of the girls danced together and that dancing is not permitted on the premises.

"Janet testified in substance that she lives with her parents and is employed as an attendant in a government institution for recalcitrant girls; that she is not a lesbian but comes in contact with such characters in her work; that she entered the Club Delite on May 4 with Judy, Dorothy and the others after they had been bowling; that she wore slacks, blouse, loafers, lipstick, and that some of the other girls were dressed as she was.

"Agent S was recalled and denied that he held Trent's arm and acted as though he was his buddy, and he further testified that he didn't recall seeing Judy or Janet on May 4 but did see Dorothy on the premises on May 2.

"Agent R was recalled and testified that he didn't recall seeing Judy, Dorothy or Janet in the Club Delite on May 4 but did see Dorothy there on April 28. He further testified that the first time he saw Trent was shortly after he and Agent S identified them-

selves at which time 'he came over and got in the group.'

"Dorothy was recalled and testified that May 2 was her mother's birthday and that she was visiting with her; that she was 'pretty sure' she was in Congers, New York, on April 28, and that she was not in the Club Delite on either date.

"Having had the opportunity to judge the credibility of the witnesses, and recognizing the sharp dispute of facts, I believe the testimony of the agents and disbelieve the testimony of the licensee's witnesses other than the statements of the three females that they are not lesbians. It is doubtful, however, that those three females were on the licensed premises on the night of May 4, 1962, since the agents who minutely observed the patronage didn't recall seeing them there.

"In any event, the evidence indicates that there were about eighteen females on the licensed premises on May 4, sixteen of whom appeared to the agents to be apparent lesbians, and that on each of the agents' previous visits to the premises thirteen like characters were observed therein.

"Considering all the facts and circumstances appearing herein, I conclude that the Division has established the truth of Charge 1 by a fair preponderance of the believable evidence, and I recommend that the licensee be adjudged guilty thereof.

"The licensee has a prior adjudicated record. Effective March 2, 1959, its license was suspended for ten days by the local issuing authority for (1) sale to minors, (2) purchase of alcoholic beverages from improper source, and (3) possession of illicit liquor.

"Because the number of apparent lesbians who gathered on the licensed premises on each of the dates alleged was small, and since the acts engaged in by them were not outrageous, I further recommend that the minimum suspension of forty days be imposed for the violation alleged in Charge 1 (cf. Re Carelis, Bulletin 1393, Item 2; Re 32 Club, Inc., Bulletin 1444, Item 3), and that five days be added for the dissimilar violations which occurred within a five-year period, making a total suspension of forty-five days."

Although the licensee's attorney advised that no exceptions to the Hearer's Report would be filed, in mitigation of penalty the attorney, following receipt of the Hearer's Report, pointed out and established to my satisfaction that the licensee's present officers and stockholders were not officers and stockholders at the time the previous offenses occurred. Those offenses, therefore, will be disregarded in fixing the penalty herein. Re Right Spot Bar & Restaurant Corp., Bulletin 1482, Item 13.

Having carefully considered the transcript of the testimony and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendation albeit reducing the penalty to forty days for the reason above stated.

Accordingly, it is, on this 9th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-22, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Club Delite, Inc. for premises 76 Bank Street, Newark, be and the same is hereby suspended for forty (40) days, commencing at 2:00 A.M. Wednesday, January 16, 1963, and terminating at 2:00 A.M. Monday, February 25, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - NUISANCE (APPARENT HOMOSEXUALS) -
LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

David Ashen & Jeanette Ashen)
t/a Silhouette Lounge)
292 Morris Ave.)
Elizabeth 3, New Jersey)

CONCLUSIONS

AND

ORDER

Holders of Plenary Retail Consumption)
License C-181, issued by the City)
Council of the City of Elizabeth)

Edward Cohn, Esq., Attorney for Licensees.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on
October 20-21 and 26-27 and November 3 and 10, 1962, they conducted
the licensed place of business as a nuisance, viz., permitting the
congregation of apparent male homosexuals on the licensed premises,
in violation of Rule 5 of State Regulation No. 20.

Reports of investigation disclose that on the dates men-
tioned, the licensed premises was patronized by varying numbers of
apparent male homosexuals, on some occasions amounting to as much
as half or more of an average patronage of thirty.

Licensees have a previous record of suspension of license
by the numicipal issuing authority for fifteen days, effective May
24, 1954, for an hours violation.

The prior record of dissimilar violations disregarded
because occurring more than five years ago, on the basis of the
facts appearing (simple congregation of a relatively large number
of apparent homosexuals, with no evidence of overt acts or immoral
activity) the license will be suspended for sixty days, with remis-
sion of five days for the plea entered, leaving a net suspension of
fifty-five days. Cf. Re Filippi, Inc., Bulletin 1486, Item 3.

Accordingly, it is, on this 8th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-181,
issued by the City Council of the City of Elizabeth to David Ashen
and Jeanette Ashen, t/a Silhouette Lounge, for premises 292 Morris
Avenue, Elizabeth, be and the same is hereby suspended for fifty-
five (55) days, commencing at 2:00 A.M. Tuesday, January 15, 1963,
and terminating at 2:00 A.M. Monday, March 11, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - COMBINATION SALE - SALE AT DISCOUNT -
LICENSE SUSPENDED FOR 10 DAYS.In the Matter of Disciplinary
Proceedings againstCharles C. & Silvio Maiatico,
Romano Nanni & Anthony DiPasquale
t/a New York Inn
703 Almond Street
Vineland, N. J.,

CONCLUSIONS

AND

ORDER

Holders of Plenary Retail Consumption
License C-10, issued by the City
Council of the City of Vineland.-----
Adamo & Pagliughi, Esqs., by Martin L. Pagliughi, Esq.,
Attorneys for Licensees
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Licensees pleaded not guilty to the following charges:

- '1. On or about December 31, 1961, you, directly or indirectly, sold and offered for sale at retail alcoholic beverages for consumption off your licensed premises except at a specified price per bottle or per case, viz., sixty cases (12 - 4/5 quart bottles to the case) of Schenley Reserve Blended Whiskey together with miscellaneous other bottles and cases of various kinds and brands of alcoholic beverages and other articles, as a "combination sale" at a single aggregate price; in violation of Rule 19 of State Regulation No. 20.
- '2. On the occasion aforesaid, you, in connection with the above mentioned sale and offer for sale of alcoholic beverages at retail for consumption off your licensed premises, directly or indirectly, offered and furnished a discount in price; in violation of Rule 20 of State Regulation No. 20.'

"There is no disagreement as to the actual transactions which resulted in the charges being preferred herein. It appears from the evidence that a customer of the licensees ordered 60 cases of 4/5 quart bottles of Schenley Reserve Blended Whiskey at a quoted price of approximately \$3,600 and the promise that an adjustment would be made at a later date. Subsequent thereto various brands of assorted alcoholic beverages, having a minimum resale price of \$388.46, were furnished to the said customer, which sum, when added to the minimum resale price of \$3,276.60 (which was the net price for 60 cases of Schenley Reserve Blended Whiskey after allowance of five per cent. discount on case lots) totaled \$3,665.06. Thus the combination sale at a single aggregate price of \$3,600 (which was less than the total of the minimum filed prices for the various items) constituted a discount and thus a violation of Rules 19 and 20 of State Regulation No. 20.

"Licensees contend that on the invoice marked Exhibit S-1 and dated December 31, 1961, wherein the various assorted brands of alcoholic beverages subsequently furnished appeared, there was merely an error in addition. An examination of Exhibit

S-1 refutes such contention. The sum total of the amounts listed thereon for the respective brands of liquor is correct, but the prices set forth for many of such items are incorrect. I cannot accept the explanation given as a reason for such practice. If such methods of merchandising as indulged in by the licensees were countenanced, the purpose of the regulation appertaining thereto would be nullified. I recommend, after careful review of the evidence presented, that the licensees be found guilty of the violations set forth in the charges preferred herein.

"Licensees have no prior adjudicated record. Under the circumstances, it is further recommended, because of the large quantity of alcoholic beverages involved, that an order be entered suspending the license for twenty-five days. Cf. Re Marshall, Bulletin 1357, Item 5."

Exceptions to the Hearer's Report and written argument thereto were filed with me by the attorneys for the licensees pursuant to Rule 6 of State Regulation No. 16.

I have carefully examined the transcript and the exhibits and am of the opinion that, because of certain facts upon which the charges preferred herein were based, mitigation should be given with reference to the penalty to be imposed in this matter. At the outset, when the transaction between the parties in question was initiated, a quotation of \$3,600 for sixty cases of Schenley Reserve Blended Whiskey was given by one of the licensees. This figure was \$323.40 above the minimum resale price of said quantity of whiskey. The licensee then supplemented the sixty cases of Schenley whiskey with items having a minimum resale price of \$388.46 which, when the overall transaction was considered, showed a price of \$65.06 less than should have been charged. I am satisfied that the licensees are guilty of the violations, but feel that the suspension recommended by the Hearer should be reduced.

Under the circumstances, I shall suspend licensees' license for a period of ten days (Re Vamos, Bulletin 1473, Item 4).

Accordingly, it is, on this 8th day of January 1963,

ORDERED that plenary retail consumption license C-10, issued by the City Council of the City of Vineland to Charles C. & Silvio Maiatico, Romano Nanni & Anthony DiPasquale, t/a New York Inn, for premises 703 Almond Street, Vineland, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Tuesday, January 15, 1963, and terminating at 2 a.m. Friday, January 25, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS) - LICENSE
SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Frances Gerofsky and Benjamin M.
Gerofsky, t/a Hymie's Bar
214½ South Broad Street
Trenton 9, N. J.

CONCLUSIONS

AND

ORDER

Holders of Plenary Retail Consump-
tion License C-180, issued by the
City Council of the City of Trenton

Green, Robinson & Deitz, Esqs., by Leon M. Robinson, Esq.,
Attorneys for Licensees.
Edward F. Ambrose, Esq., Appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on
October 27, 1962, they permitted possession of numbers slips on
the licensed premises, in violation of Rule 6 of State Regulation
No. 20.

Absent prior record, the license will be suspended for
twenty-five days, with remission of five days for the plea
entered, leaving a net suspension of twenty days. Cf. Re Malin-
conico, Bulletin 1482, Item 5.

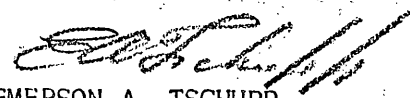
Accordingly, it is, on this 8th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-180,
issued by the City Council of the City of Trenton to Frances
Gerofsky and Benjamin M. Gerofsky, t/a Hymie's bar, for premises
214½ South Broad Street, Trenton, be and the same is hereby sus-
pended for twenty (20) days, commencing at 2:00 A.M. Tuesday,
January 15, 1963, and terminating at 2:00 A.M. Monday, February
4, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

10. STATE LICENSE - NEW APPLICATION FILED.

Dieter Steinmann
80-77 Cypress Avenue
Ridgewood, New York
Application filed February 18, 1963
for Limited Wholesale license.


EMERSON A. TSCHUPP
Acting Director