

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

June 20, 1960.

BULLETIN 1341

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1. DISCIPLINARY PROCEEDINGS - SELLING ALCOHOLIC BEVERAGES AND FAILING TO CLOSE PREMISES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - HINDERING INVESTIGATION - PERMITTING ACTS OF VIOLENCE ON ABC AGENTS - PRIOR RECORD - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against

GREAT ARROW INVESTMENT CORP.
t/a MONTE CARLO
Route 46 and Frederick Street
Little Ferry, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Mayor and Council of the Borough of Little Ferry

Green & Yanoff, Esqs., by H. Kermit Green, Esq., and H. Dick Cohen, Esq., Attorneys for defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charges:

- '1. On Saturday, December 19, 1959, between 3:00 a.m. and 3:25 a.m., you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and permitted the consumption of alcoholic beverages upon your licensed premises; in violation of Section 1 of an Ordinance adopted by the Mayor and Council of the Borough of Little Ferry on January 29, 1945.
- '2. On Saturday, December 19, 1959, between 3:00 a.m. and 3:25 a.m., you failed to close your entire licensed premises and have them remain closed; in violation of Section 1 of an Ordinance adopted by the Mayor and Council of the Borough of Little Ferry on January 29, 1945.
- '3. On Saturday, December 19, 1959, between 3:25 a.m. and 3:30 a.m., you, through officers, directors, shareholders and agents, servants and employees of your corporation and other persons in your behalf, committed and allowed, permitted and suffered in and upon your licensed premises acts of violence, viz., assaults and batteries upon the persons of Edward J. O--- and Fred A. S---, Investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of Rule 5 of State Regulation No. 20.
- '4. On Saturday, December 19, 1959, between 3:25 a.m. and 3:30 a.m., while the above-named Edward J. O--- and Fred A. S---, Investigators of the Division of Alcoholic

Beverage Control of the Department of Law and Public Safety of the State of New Jersey were conducting an investigation, inspection and examination of your licensed premises, you, through officers, directors, shareholders and agents, servants and employees of your corporation and other persons in your behalf, failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation, inspection and examination; in violation of R.S. 33:1-35.'

"Defendant's premises are sometimes referred to herein as the Stage Coach Inn.

"The charges herein are based upon events which allegedly occurred during the early morning hours of December 19, 1959, while an investigation of defendant's premises was being made by two ABC agents, hereinafter referred to as Agent O and Agent S. The testimony and photographs introduced into evidence clearly establish that on the morning in question Agent O was beaten and Agent S severely beaten and that they were treated for their injuries at the Hackensack Hospital.

"At the hearing herein both agents testified that they arrived in the vicinity of defendant's premises at about 1:20 a.m.; that Agent S entered the premises about 1:35 a.m. and that Agent O then stayed in his car which was parked a short distance from the premises.

"The testimony of Agent S as to the events which occurred after he entered and before Agent O entered may be summarized as follows: After going up a flight of stairs and passing through the foyer and a large sitting room, in which there were about one hundred people, he entered an adjoining barroom and took a seat at the bar. At that time there were about thirty-two patrons at the bar and four bartenders (including Salvatore Tamburello and Joseph Pintozzi) were on duty. A male band known as the Top Hatters was playing on a small stage. He spoke generally to the bartender Salvatore and purchased a bottle of beer at once and additional bottles of beer at 2:05 a.m., 2:30 a.m. and 2:50 a.m. At or about 2:50 a.m. the lights blinked on and off and some patrons prepared to leave. The members of the band then stopped playing and two of the players joined a group seated around the turn of the bar to his left. At 3 a.m. the bartenders were serving drinks to the majority of the twenty-one patrons who were then seated at the bar. At 3:07 a.m. he asked Salvatore for another beer. Salvatore replied 'I'm sorry, it is after hours and the boss says you have to go' and pointed to Anthony Barresi who was in a group of people seated to his left. Later, when Barresi left the group (eight males and two females) and passed behind him, he said 'Hey, how about a quick shot before I go' and, when Barresi replied 'OK' and nodded to Salvatore, the latter served him with a shot of V.O. Schenley and water at 3:17 a.m. He still had this drink in front of him when Agent O entered the premises at 3:25 a.m. At this time there were about eight other patrons in the premises in addition to those in the aforesaid group.

"Agent O testified that he remained in his car until 3:22 a.m. and then entered the premises and went to the barroom. He saw Agent S seated at the bar with a glass containing liquid in front of him. A group, consisting of about twelve males and two females, was at another part of the bar. Two bartenders were then behind the bar and one was pouring a drink for a male in this group. He went to the bar and asked one of the bartenders for a

scotch and water. After the bartender told him 'We are closed', he showed his credentials to the bartender and said 'A.B.C. You are running a little late.' He then went to the place where Agent S was seated and the latter held his badge over the bar in front of the same bartender. He then started towards the group to seize the drink he had seen poured and, as he was walking with his credentials in his hand, Anthony Barresi left the group, approached him, said 'ABC, huh' and 'threw a right hand punch and hit me in the cheek.' Somebody grabbed him from the rear. Barresi punched him again and also punched Agent S, who had approached, and 'it seemed like there were ten or twelve males all congregating around us and punching us.' He fell to the floor and his revolver disappeared as he was trying to reach for it. He saw Agent S pushed up against a window and heard the glass shatter. At one time, while he was on the floor, he heard someone holler 'Shoot them! Kill the ---.' The struggle continued towards the door and, as the struggle reached the foyer at the top of the stairs, he went down the stairs and out the door to his car. He recognized only two of those who attacked the agents, namely Anthony Barresi and Dominick Policastro who wore a white shirt and white pants similar to those worn by kitchen help.

"The testimony of Agent S as to the events which occurred after Agent O entered may be summarized as follows: At that time there were two bartenders behind the bar and a group consisting of about ten males and two females was at the bar. He corroborated the testimony of Agent O as to the production of credentials and badge. He saw Agent O holding his credentials in his hand as Agent O was struck by Anthony Barresi. He saw the two bartenders leap over the bar and saw them and the two musicians, who had been in the group, approach the place where Agent O and Barresi were standing. He attempted to aid the other agent and was struck in the face by Barresi. During the fight, which involved about twelve persons, he was thrown against a window, which was smashed, and against a table, which overturned. He was thrown to the floor and kicked. When the fight reached the foyer, Dominick Policastro kicked him in the back and he landed at ground level. At least four persons (Barresi, Policastro and the two bartenders) followed him out the door and punched and kicked him. Agent O then arrived with his car.

"Agent S entered the car which was driven directly to the Hackensack Hospital. An exhibit presented by defendant indicates that at 3:35 a.m. the Police Department of Little Ferry received a telephone call from Lieutenant Vrablik of the Bergen County Police stating that 'two ABC men were worked over at the Stage Coach Inn and are at the Hackensack Hospital.'

"On behalf of the Division, Patrolman George Gibson of the Little Ferry Police Department testified that on December 19, 1959, in response to a radio call from headquarters, he went to the Hackensack Hospital and then to defendant's premises. The place was in darkness but, while he was looking around, a Mr. Gerard admitted him to the building. In the barroom he observed that a window had been broken, a table overturned, glasses had been broken and various materials were on the floor. Near the overturned table he found a dark-brown button which was introduced into evidence and which was identified by another witness as similar to a button on the jacket worn by Agent S during his visit to the premises. Lieutenant George Vrablik of the Bergen County Police testified that he saw both agents in the hospital at 4:15 a.m. Detective Richard Kikkert, of the Bergen County Prosecutor's office, testified that he and Detective Edward Kastner went to the hospital and then to defendant's premises where they arrived at about 5 a.m. He met Patrolman Gibson there. He observed that the entire lower pane of a window in the barroom was smashed out and a table in the room overturned. In the foyer he found part of a

ball-point pen which Agent S later testified was part of a pen owned by him. On cross-examination he testified that he later met Anthony Barresi and Dominick Policastro at the hospital and that the latter 'had on a white shirt and a pair of white pants.'

"On behalf of defendant, Mrs. Josephine Sepede (a sister of Anthony Barresi) testified that on the morning in question she and others entered the barroom shortly before 2 a.m. and sat at the bar; that Agent O entered and sat beside her; that he annoyed her and spilled a drink on her dress and that she left the premises about 2:25 a.m.

"Dominick Policastro testified that he is a porter, watchman and all-around man at defendant's premises. He testified that he is paralyzed on the left side, walks with a limp and has difficulty raising his left foot. He said that he usually wears a white uniform. He denied that he engaged in any fight with the agents or that he kicked Agent S down the stairs. He testified that he locked the front door about 2:50 a.m. and went to bed about 3:05 a.m.

"Carmen Falconieri and Bennie Grimoldi (the two member of the Top Hatters band) testified that they stopped playing when the lights blinked and left the premises shortly before 3 a.m. Each denied that he participated in any fight or saw any fight on the premises.

"Christopher Bertelone testified that he and a friend arrived at the licensed premises on the morning of December 19, 1959, at about 12:30 a.m. and sat at the bar until a couple of minutes before 3 a.m. when they left. He testified that, shortly before he left, he saw Anthony Barresi and Joseph Pintozzi putting four men out of the barroom but that he saw no fight.

"Salvatore Turminello testified that two bartenders went off duty at 2:30 a.m. and that, thereafter, he and Joseph Pintozzi continued to tend bar. He denied that he served or saw anyone consuming any liquor after 3 a.m. He stated that, when he left the premises at about 3:15 a.m., Barresi, Policastro and the bartenders were the only persons there. He had seen some fellows taken out earlier but he denied that he saw or took part in any fight.

"Joseph Pintozzi testified that he was on the late shift with Salvatore. He testified that he heard a crash about 2:40 a.m. at the other end of the bar; that one fellow was on the floor and that he and Anthony Barresi escorted the fellow out and locked the door. He says he left the premises about 3:15 a.m. and that he did not see or participate in any fight.

"Anthony Barresi (president of defendant corporation and owner of 50% of its stock) testified that the only time he actually recognized the two ABC agents was at the hospital. He stated that there was a sort of resemblance between them and some of the fellows they had ushered out shortly before 3 a.m. He testified that, about the time the lights blinked, one fellow got off a stool, tripped and fell over a table, and another fellow tripped over him. He stated further that he and Joseph Pintozzi picked up the fellows, ushered them off the premises and locked the door; that he then returned to the barroom, checked the receipts and left about 3:25 a.m. He denied (pages 257 to 262) substantially all the evidence given herein by the agents.

"James Venturella, who was subpoenaed by the Division, testified that he is a salesman; that on the morning in question he entered defendant's premises about 2:30 a.m., sat at the bar

and had one drink; that the Top Hatters stopped playing when the lights blinked; that, later, a bartender came over and said 'Would you mind drinking up? It is three o'clock. We want to close'; that he finished his drink, said good-bye to some members of the Top Hatters and left the premises; that, when he reached his car in the parking lot, he could not locate his keys and went back to the barroom; that 'there were still some people in there'; that he found his keys in his pocket; that, as he was again leaving the barroom, he was struck from behind and knocked unconscious; that he recovered, reached his car and drove home, arriving there about 4:15 a.m.

"After considering the evidence and exhibits and the brief filed on behalf of defendant, I conclude that the agents truthfully described the events which occurred on defendant's premises on the morning of December 19, 1959. The testimony of James Venturella corroborates their testimony that the premises were open after 3 a.m. I am satisfied that a drink of alcoholic beverages was served to Agent S at 3:17 a.m.; that the licensee permitted the consumption of alcoholic beverages in the premises long after 3 a.m., and that the premises were not closed after 3 a.m. as required by the local ordinance. Hence the guilt of defendant as to Charges 1 and 2 has been established. As to Charges 3 and 4, I believe that, if the incidents described by Mrs. Sepede occurred, they were caused by some patron other than Agent O and that said agent was not on the premises between 2 a.m. and 2:25 a.m. Her testimony and that of Christopher Bertelone is not helpful to defendant because both say that they left the premises before 3 a.m. There is a possibility that the two members of the Top Hatters may not have participated in the assault upon the agents, but I am satisfied that Anthony Barresi, Dominick Policastro and the two bartenders then on duty did assault and eject the agents. The broken window, the overturned table, the button found near the table and the portion of the agent's pen which was found in the foyer are mute evidence in support of the testimony of the agents. The guilt of defendant as to Charges 3 and 4 has also been established. Hence I recommend that defendant be found guilty of all charges herein.

"Defendant has a prior record. Effective February 1, 1956, its license was suspended by the Director for forty days for an 'hours' violation (Bulletin 1098, Item 9) and effective June 4, 1957, suspended by the Director for twenty days for an 'hours' violation (Bulletin 1175, Item 5). Moreover, the application for the current license admits that Anthony Barresi was a principal of Olympic Inc., Maywood, whose license was suspended for thirty days by order of the Director dated September 10, 1957, for conducting its business as a nuisance (Bulletin 1190, Item 4) and which suspension became effective July 14, 1958, after termination of proceedings to review (Bulletin 1239, Item 5). Under all the circumstances, the only proper penalty in this case is a revocation of the license. It is recommended, therefore, that an order be entered revoking defendant's license."

Written exceptions to the Hearer's Report and written argument in support thereof were filed with me by the attorney for defendant, pursuant to Rule 6 of State Regulation No. 16.

I have carefully considered the evidence, the exhibits, the brief submitted by defendant's attorney after the hearings were held, the Hearer's Report, the exceptions thereto and the written argument in support of said exceptions. I am fully satisfied that the premises were not closed after 3 a.m. and that a drink of alcoholic beverages was served to one of the agents as late as 3:17 a.m. on the morning in question. I am also satisfied that

both agents were assaulted and ejected by Anthony Barresi, Dominick Policastro, the two bartenders and other persons then in the premises. The mute evidence set forth in the Hearer's Report is sufficient to support the agent's testimony as to these charges. In addition, there was introduced into evidence (pages 81, 82 and 83) some of the clothing worn by Agent S on this visit to defendant's premises. The clothing in question was badly ripped and stained with blood which indicates that the agent received a severe beating. I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein. Hence I find defendant guilty as charged. Under all the circumstances, the only proper penalty in this case is a revocation and I shall enter an order revoking defendant's license.

Accordingly, it is, on this 2nd day of May 1960,

ORDERED that Plenary Retail Consumption License C-5, issued by the Mayor and Council of the Borough of Little Ferry to Great Arrow Investment Corp., t/a Monte Carlo, for premises at Route 46 and Frederick Street, Little Ferry, be and the same is hereby revoked, effective immediately.

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - REVOCATION REIMPOSED AFTER DENIAL OF STAY BY APPELLATE DIVISION.

In the Matter of Disciplinary)
Proceedings against)

GREAT ARROW INVESTMENT CORP.)
t/a MONTE CARLO)
Route 46 and Frederick Street)
Little Ferry, N. J.)

ORDER

Holder of Plenary Retail Consumption)
License C-5, issued by the Mayor and)
Council of the Borough of Little Ferry.)

On May 2, 1960, an order was entered herein revoking the defendant's license effective immediately. Upon appeal filed, the Appellate Division of Superior Court temporarily restrained the operation of the revocation order pending application for a stay until the outcome of the appeal. On May 9, 1960, the Court denied the stay application and today entered an order to that effect. The revocation may, therefore, now be reimposed.

Accordingly, it is, on this 10th day of May 1960,

ORDERED that the revocation of License C-5, issued by the Mayor and Council of the Borough of Little Ferry to Great Arrow Investment Corp., t/a Monte Carlo, for premises at Route 46 and Frederick Street, Little Ferry, be and the same is hereby reimposed, effective immediately.

WILLIAM HOWE DAVIS
DIRECTOR

By: Edward J. Dorton,
Deputy Director

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(PERMITTING ARRANGEMENTS FOR ILLICIT SEXUAL INTERCOURSE) -
LICENSE SUSPENDED FOR 100 DAYS.

In the Matter of Disciplinary
Proceedings against

MUNDO TAVERN, INC.
500 Market Street
Newark 5, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-167, issued by the Municipal
Board of Alcoholic Beverage Control of
the City of Newark

Martin Gelber, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant entered a plea of not guilty to a charge alleging that on December 2, 1959, it allowed, permitted and suffered lewdness and immoral activity in and upon its licensed premises, viz., the making of overtures and arrangements for illicit sexual intercourse, in violation of Rule 5 of State Regulation No. 20.

When the matter came on for hearing, the Division attorney called as his witnesses the four ABC agents who participated in the investigation of defendant's licensed premises. They will be referred to hereafter as Agents S, R, J and O. Defendant's attorney called two patrons of defendant's establishment and Pedro Plespe, its bartender, and upon completion of their testimony, he requested and was granted an adjournment in order to produce other witnesses. Prior to the adjourned date, defendant, by its attorney, entered a plea of non vult which was accepted by the Division.

It appears from the testimony of the agents that at 9:45 p.m., December 2, 1959, they drove to the vicinity of defendant's tavern; that Agents J and O remained outside and Agents S and R entered the tavern and took seats near the center of the bar. Pedro Plespe was behind the bar, at which ten males, one couple and two lone females were seated. At about 10:10 p.m. Agents S and R observed a male enter the tavern and, after having a few drinks and conversing with Pedro, he approached one of the lone females called Della, conversed with her briefly and left the tavern. Della then asked Pedro for her coat and departed. At 10:40 p.m. Della returned and sat at the far end of the bar. At 11:00 p.m. a male, identified as Phillipe Michardo, entered, seated himself at the bar alongside of the agents and became very friendly, conversing and exchanging drinks with them. Pedro also joined in the conversation and asked the agents if they had been in the establishment previously. When Agent S told Pedro that they knew Cavaletto, he remarked, "You know Cavaletto? For a minute I thought you were cops. Sometimes they come in here and try to get the girls out and they dress like you in old clothing. I have to be very careful. You're all right, you know Cavaletto". At 11:45 p.m. the agents told Michardo that they were looking for a good time and he inquired, "Do you want to get laid?" When the agents responded in the affirmative, Michardo brought Della to where the agents were sitting and she asked them if they would like to go out with her and stated that her price was \$10. When they asked if they could bring Michardo along with them, she said all right but they would have to pay \$10 for him too.

Agent R left the premises and contacted Agents J and O who, in turn, contacted a police officer. Agent R returned to the premises and in his presence and in the presence of Michardo and Pedro, Agent S handed Della \$10, the serial numbers of which had been previously recorded, stating that he would pay the balance later, and Pedro remarked, "You know Cavaletto, you are a good guy, you're okay, she's okay, everybody's okay". At Della's request, the agents and Michardo left the tavern and she rejoined them shortly thereafter across the street. When they had walked a short distance, they were stopped by Agents J and O and a police officer, who inquired as to where they were going and for what purpose. Agents S and R informed the police officer and Agents J and O that they had arranged with Della to have illicit sexual relations with her, which Della denied. However, when Agents S and R identified themselves, she handed over to the police officer the money she had received from Agent S and was placed under arrest.

I have considered the testimony of defendant's bartender, notwithstanding the non vult plea entered herein, and I am satisfied that he did not participate in the arrangements which the agents made with Della. Were it established to my satisfaction that the bartender had actually procured Della to engage in sexual relations with the agents, defendant's license would be revoked. Re Merjack Corporation, Bulletin 998, Item 1. However, in the instant case, such concrete proof does not appear. Cf. Re Weiner, Bulletin 1309, Item 2, and cases cited therein. Under the circumstances and taking into consideration the fact that defendant has no prior adjudicated record, I shall suspend its license for the period of one hundred days. Cf. Re Chaika, Bulletin 1284, Item 1.

Accordingly, it is, on this 27th day of April, 1960,

ORDERED that Plenary Retail Consumption License C-167, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Mundo Tavern, Inc., for premises 500 Market Street, Newark, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m., Monday, May 9, 1960; and it is further

ORDERED that any renewal for the 1960-61 licensing year or transfer of said license shall be and remain under suspension until 2:00 a.m., Wednesday, August 17, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALE AT LESS THAN MINIMUM CONSUMER RESALE PRICE DISMISSED - ACCEPTING FROM WHOLE-SALER DELIVERIES OF ALCOHOLIC BEVERAGES PRICES OF WHICH WERE NOT LISTED IN WHOLESALE PRICE LIST - AIDING AND ABETTING HOLDER OF SOLICITOR'S PERMIT TO MAKE UNLAWFUL SALE OF ALCOHOLIC BEVERAGES - HINDERING INVESTIGATION - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary
Proceedings against

LEE CLUB, A CORPORATION
t/a LEE CLUB
27 Church Street
Paterson, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-126 (for the 1958-59 and 1959-60
licensing years), issued by the Board of
Alcoholic Beverage Control for the City of
Paterson.

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

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

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The following charges were preferred against defendant
corporate licensee.

- '1. On or about April 17, 1958 and May 21, 1958, you accepted deliveries from a wholesaler of alcoholic beverages, Federal Wine & Liquor Company, through its solicitor, David Freidman, of alcoholic beverages other than malt alcoholic beverages, viz., four bottles of Dewars Scotch Whisky, which were not price listed by said wholesaler in the then currently effective quarter-annual Wholesale Price List published by the Director of the Division of Alcoholic Beverage Control; in violation of Rule 1 of State Regulation No. 34.
- '2. On or about December 12, 1957, you accepted delivery from a wholesaler of alcoholic beverages, National Wine & Liquor Company, through its solicitor, David Freidman, of alcoholic beverages, other than malt alcoholic beverages, viz., twelve bottles of Dewars Scotch Whisky, at less than the price thereof listed by said wholesaler in the then currently effective quarter-annual Wholesale Price List published by the Director of the Division of Alcoholic Beverage Control; in violation of Rule 1 of State Regulation No. 34.
- '3. On or about September 10, 1958 and on divers occasions prior thereto extending to on or about September 18, 1957, you knowingly aided and abetted David Freidman in the unlawful sale of alcoholic beverages to you in that he did not hold any license or permit authorizing him to do so, contrary to R.S. 33:1-2; in violation of R.S. 33:1-52.

- '4. On December 30, 1958 and February 3, 1959, you, through your directors, officers, agents, and employees, failed to facilitate and hindered and delayed, caused the hindrance and delay and attempted to cause the hindrance and delay of the investigations, inspections and examinations being conducted by an inspector and investigator of the Division of Alcoholic Beverage Control at your licensed premises; in violation of R.S. 33:1-35.'

"When the matter came on for hearing, defendant entered pleas of non vult to Charges 1 and 3 and pleas of not guilty to Charges 2 and 4.

"The facts underlying the violations alleged in Charges 1 and 3 are sufficiently set forth therein and obviate the necessity of presenting herein a detailed account of the unlawful practices.

"To substantiate Charges 2 and 4, the Division called as its witnesses the two ABC agents who participated in the investigation of defendant's licensed business and David Freidman, a liquor salesman

"It appears from the agents' testimony that on December 30, 1958 they made a thorough examination of defendant's invoices, tax reports and cancelled checks and found among them Check No. 1579 dated December 12, 1957 issued for the Lee Club by Thomas Piombo and made payable to Cash in the amount of \$60 and endorsed for deposit by D. Freidman, and that the corresponding numbered stub in the check book showed that the check was issued in payment for '12 bottle Dewars'. It appears further from the agents' testimony that Thomas Piombo, husband of the president and majority stockholder of the corporate-licensee, with power of attorney to issue checks, and Donato Andreano, holder of 24 shares of defendant's corporate stock, stated that the check represented payment for 12 fifth bottles of Dewars Scotch Whisky delivered by David Freidman and that, when the agents informed them that the amount paid for the liquor was 20 cents below the minimum wholesale price in effect as of the date of delivery of the merchandise, Mr. Piombo asked if they would forget what they saw if certain public officials whom he named would talk to them; that when Piombo was told that it would do no good, he remarked that 'ABC agents also get suspended from their jobs for doing something wrong as well as licensees getting suspended for doing wrong' and reminded them that they could do themselves a lot of good if they forgot what they saw. It further appears from the agents' testimony that on February 3, 1959 they obtained written statements signed and sworn to by Messrs. Piombo and Andreano which 'statements were merely confirmations of the statements that were made on the previous occasion concerning the checks and what they were used for' and that when they had completed their investigation and were leaving the premises, Mr. Piombo pointed his finger at them and said, 'If the Lee Club gets suspended, somebody is going to get hurt'.

"On cross-examination, the agents testified that Messrs. Piombo and Andreano were friendly and cooperative; that they made available whatever records were requested and that Piombo's remarks neither hindered nor delayed the investigation.

"David Freidman testified on cross-examination that on December 12, 1957 he delivered 12 fifth bottles of Dewars Scotch Whisky to the Lee Club and received from Mr. Piombo a check in the amount of \$60 and cash in the amount of 20 cents in payment for said merchandise.

"It was stipulated that the minimum wholesale price in effect on December 12, 1957 for 12 fifth bottles of Dewars Scotch

Whisky was \$60.20 and Check #1579, together with the corresponding numbered stub, and the statements of Messrs. Piombo and Andreano were received in evidence.

"The witnesses appearing for defendant corporate-licensee were Thomas Piombo and Donato Andreano.

"Piombo testified in substance that one of the agents introduced the names of public officials into the conversations; that he never made the remarks attributed to him but did say to the agents when they were leaving, 'Gee, it would be a pity if I got hurt in this trivial thing that I do nothing'. With respect to the amount paid for the Scotch Whisky, Piombo testified that, 'I took the check book and I went out into the tavern and I thought I heard Dave say \$60, but he must have said \$60.20, so I made out the check for \$60 and Dave said to me, "Tom, you short-changed me 20 cents". I said gee, I'm sorry, Dave, and I walked around to the cash register, rang up no sale and gave Dave the 20 cents'; and that he made a notation of the cash disbursement which was later entered in the daily cash report book.

"Donato Andreano testified in substance that he entered the 20 cents in the daily cash report book on December 13, 1957 and he denied that Piombo mentioned the name of any public official or that Piombo made the remarks attributed to him by the agents. He testified further that it was one of the agents who named a public official with whom Mr. Piombo shares offices in the building housing the Lee Club. A loose-leaf page from the daily cash report book dated December 12, 1957 showing a 20 cent disbursement for liquor was received in evidence.

"Having carefully considered the evidence herein, I find that on December 12, 1957 the Lee Club paid \$60.20, the minimum wholesale price then in effect for the 12 fifth bottles of Dewars Scotch Whisky delivered on that date to the Lee Club. Piombo's testimony respecting the manner of payment is corroborated not only by that of Andreano, but by that of Division's witness Freidman and by the daily cash report received in evidence. I conclude, therefore, that the Division has not established the truth of Charge 2 by the necessary preponderance of the evidence and I recommend that the charge be dismissed.

"As to Charge 4, I find that it was Piombo who injected the names of the public officials into the investigation and that he made the remarks attributed to him by the agents, and I conclude that his conduct was calculated to intimidate the agents and to deter them in the performance of their assigned duties and that such conduct constituted 'hindering' within the meaning of R.S. 33:1-35. Re Supreme Beverage Company, Bulletin 1231, Item 3, and Bulletin 1264, Item 9. I recommend, therefore, that defendant be found guilty of said charge.

"Defendant has a prior adjudicated record. Effective August 23, 1954 its license was suspended for thirty days by this Division for (a) an 'hours' violation and (b) hostess activity (Re Lee Club, A Corp., Bulletin 1030, Item 8) and effective June 11, 1956 its license was suspended for forty days by the same authority for hostess activity (Re Lee Club, A Corp., Bulletin 1108, Item 2, and Bulletin 1122, Item 7). Since there appears to be no precedent by which the quantum of penalty may be determined for the violations set forth in Charges 1 and 3, to which confessional pleas have been entered, I recommend that a minimum penalty of ten days be imposed for both. I recommend further that ten days be imposed for the violation set forth in Charge 4 (Re Club Harlem, Inc., Bulletin 1327, Item 5) and that five days be added because of the prior dissimilar violations which occurred within five years of the violations set

forth in Charges 1, 3 and 4, making a total suspension of twenty-five days to be imposed against defendant's license."

Written exceptions to the Hearer's Report and written argument with respect thereto were filed with me by defendant's attorney within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the entire record, including the evidence, the Hearer's Report and the exceptions and written argument, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 28th day of April 1960,

ORDERED that Plenary Retail Consumption License C-126, for the 1959-60 licensing year, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Lee Club, A Corporation, t/a Lee Club, for premises 27 Church Street, Paterson, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m., Monday, May 9, 1960, and terminating at 3:00 a.m., Friday, June 3, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AND FAILURE TO CLOSE PREMISES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

FRANIRE INC.)
t/a HI-HAT CLUB)
Gloucester Ave. and White Horse Pike)
Lawnside, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-4, issued by the Borough)
Council of the Borough of Lawnside)

Edward F. Menetti, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On Sunday, March 20, 1960 between 3:00 a.m. and 4:00 a.m., you sold, served, delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and allowed the consumption of alcoholic beverages on your licensed premises; in violation of Section 5 of an Ordinance adopted by the Borough Council of the Borough of Lawnside on April 1, 1942, as amended June 5, 1946.
- "2. On Sunday, March 20, 1960 between 3:00 a.m. and 4:00 a.m., you failed to have your entire licensed premises closed; in violation of Section 5 of an Ordinance adopted by the Borough Council of the Borough of Lawnside on April 1, 1942, as amended June 5, 1946.

"3. On Sunday, March 20, 1960 between 4:00 a.m. and 4:15 a.m., you through your agents, servants, employees and other persons in your behalf, failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation, inspection and examination at your licensed premises then and there being made by Investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of R.S. 33:1-35."

The Ordinance referred to in the first and second charges herein prohibits the sale of alcoholic beverages on Sunday between 3:00 a.m. and 1:00 p.m. and provides that the licensed premises must be closed between said hours.

At 3:30, 3:55 and 4:00 a.m. on Sunday, March 20, 1960, two ABC agents looked through a window of the licensed premises and observed many patrons seated at the bar and consuming drinks being served to them by two bartenders, one of whom was later identified as Frank Robinson, a stockholder of the corporate-licensee. The agents then proceeded to the front door of the licensed premises and in response to a knock on the same, Robinson opened the shutters. The agents announced their identities, displayed their credentials and asked to be admitted. Robinson refused to admit the agents and closed the shutters. One of the agents thereupon returned to the window where he observed Robinson pour the drinks down the drain, remove the glasses from the bar and direct the patrons into a side room. At about 4:15 a.m., the agents, after persistent knocking on the front door, were admitted to the premises and informed Robinson of the violations. Robinson stated he was serving the drinks gratuitously to friends.

Defendant has no prior adjudicated record. However, in 1944 when Frank Robinson, a 5% shareholder in the present corporate licensee, held a license in partnership with Joseph R. Walley for premises at 702 So. Second Street, Camden, N. J., such license was suspended for three days, effective May 9, 1944, by this Division for service of alcoholic beverages to women over a bar. Re Robinson & Walley, Bulletin 618, Item 5. In view of the fact that the violation occurred more than ten years ago, it will not be considered in fixing the penalty herein. I have considered the mitigating circumstances urged on behalf of the defendant and do not find any justification therein for imposing less than the minimum penalty for the violations involved. I shall suspend the defendant's license for a period of twenty-five days. Re The Barracuda (a N. J. Corp.), Bulletin 1255, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 26th day of April 1960,

ORDERED that Plenary Retail Consumption License C-4, issued by the Borough Council of the Borough of Lawnside to Franire Inc., t/a Hi-Hat Club, for premises Gloucester Ave. and White Horse Pike, Lawnside, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m., Tuesday, May 3, 1960 and terminating at 3:00 a.m., Monday, May 23, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

6. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN CLUB - STOCK
OF ALCOHOLIC BEVERAGES AND OTHER PROPERTY SEIZED ORDERED FORFEITED.

In the Matter of the Seizure	)	
on December 19, 1959 of a	)	Case No. 10,178
quantity of alcoholic beverages,	)	
furnishings, fixtures and equipment	)	ON HEARING
at 252 Market Street, in the City	)	CONCLUSIONS
of Newark, County of Essex and State	)	AND ORDER
of New Jersey.	)	

N. J. Deaf Mutes Society, Inc., by Harry Schavrien.
David S. Piltzer, Esq., appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to Title 33, Chapter 1, Revised Statutes of New Jersey, and further pursuant to a stipulation dated December 30, 1959 signed by Harry Schavrien on behalf of the above named society, to determine whether a quantity of alcoholic beverages, \$23.95 in cash, and various fixtures, furnishings and equipment, described in a schedule attached hereto, seized on December 19, 1959 at 252 Market Street, Newark, New Jersey, constitute unlawful property and should be forfeited.

At the time of the seizure Harry Schavrien, on behalf of the N. J. Deaf Mutes Society, Inc., deposited \$150.00 in cash under protest pursuant to R.S. 33:1-66 with the Director of the Division of Alcoholic Beverage Control, representing the appraised retail value of the aforesaid fixtures, furnishings and equipment, and thereupon obtained return of all of the seized property, excluding the alcoholic beverages and \$23.95 in cash. Thereafter Harry Schavrien on behalf of such society, entered into a written stipulation that the Director determine in these seizure proceedings whether such sum of \$150.00 should be forfeited, or returned to the society.

When the matter came on for hearing pursuant to R.S. 33:1-66 and the aforesaid stipulation, Harry Schavrien appeared on behalf of the society. It developed that the members of such organization had the mistaken impression that the Division sought to forfeit the money deposited, as well as the specific articles returned to them. Informed that such was not the fact, that the hearing involved only the money deposited, and the alcoholic beverages and seized money, Harry Schavrien specifically stated that the society did not seek return of the \$150.00 or of any of the seized property remaining in the possession of the Division.

The following appears from the testimony of an ABC agent: he and a fellow agent visited the club quarters of the society, located on the third floor of a four story building at 252 Market Street, on December 19, 1959 at about 9:25 p.m., after each paid an admission fee of \$1.00. The agent observed a number of persons there purchasing and consuming alcoholic beverages. The agents purchased a total of three drinks each of whiskey from the bartender, and after the service of the last drink, disclosed their identity and made the seizure because the society did not hold any license to sell alcoholic beverages, and the premises were not licensed for that purpose.

The seized property consisted of 89 cans of beer, nine bottles of other alcoholic beverages, 40 bottles of soda, \$23.95 in cash found in the register; and the various fixtures, furnishings and equipment in the premises.

It appears that this organization held a license authorizing the sale of alcoholic beverages from 1946 through the 1957-1958

licensing period, but thereafter, due to confusion in the change of the name of the club and its officers, failed, thereafter, for one reason or another, to renew its license.

The seized alcoholic beverages are illicit because they were intended for sale without a license. R.S. 33:1-1(i). Such illicit alcoholic beverages, the \$23.95 in cash, and other personal property seized in the premises constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

Accordingly, it is DETERMINED and ORDERED that the seized alcoholic beverages and \$23.95 in cash, more fully described in Schedule "A" attached hereto, constitute unlawful property, and the same be and hereby are forfeited in accordance with the provisions of R.S. 33:1-66, and that the alcoholic beverages be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control; and it is further

DETERMINED and ORDERED that the various fixtures, furnishings, and equipment, described in Schedule "A" constitute unlawful property and that the sum of \$150.00 representing the retail value of such fixtures, furnishings and equipment returned to Harry Schavrien, on behalf of N. J. Deaf Mutes Society, Inc., paid under protest to the Director of the Division of Alcoholic Beverage Control by Harry Schavrien, on behalf of N. J. Deaf Mutes Society, Inc., be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66, to be accounted for in accordance with law.

Dated: May 4, 1960

WILLIAM HOWE DAVIS
DIRECTOR

SCHEDULE "A"

89 - 12 oz. cans of beer
9 - bottles of other alcoholic beverages
40 - bottles of soda
1 - television set
1 - cash register
1 - coffee pot
1 - ice chest
1 - gas range
1 - shuffle board
5 - tables
60 - chairs
1 - wooden bar
1 - electric cooler
Assorted glasses, candies, gum
\$23.95 in cash

7. DISQUALIFICATION REMOVAL PROCEEDINGS - DISQUALIFICATION BECAUSE OF A PRIOR CONVICTION LIFTED BY PREVIOUS ORDER - DISQUALIFICATION BECAUSE OF SUBSEQUENT CONVICTION LIFTED AFTER EXPIRATION OF 5 YEARS FROM DATE THEREOF.

In the Matter of an Application to)
Remove Disqualification because of)
a Conviction, Pursuant to R.S.)
33:1-31.2)

CONCLUSIONS
AND ORDER

Case No. 1539

BY THE DIRECTOR:

On June 10, 1949, the then Director entered an order removing petitioner's statutory disqualification because of convictions of crime involving the element of moral turpitude. Thereafter, on June 21, 1950, petitioner was sentenced by a county judge to serve

from four to seven years in a state prison as a result of his conviction of the crime of burglary committed on or about March 19, 1950. Petitioner was released on parole from the penal institution on January 4, 1954 and on June 27, 1955 the maximum period of parole expired.

Burglary is a crime involving the element of moral turpitude. Re Case No. 831, Bulletin 883, Item 10.

On only a few occasions since the Alcoholic Beverage Division was established has an application been made to remove disqualification because of a conviction occurring after the entry of a previous order removing disqualification. Under the circumstances it is readily understandable why I should hesitate to grant relief in any such case unless I am convinced that petitioner is entitled to another chance.

It appears from the evidence presented herein that petitioner is married and the father of three children 14, 9 and 3 years of age, respectively, and that he lives with his wife and family; that he has been employed during the past three years by a company engaged in the manufacture of automobile accessories; that he is requesting relief in this proceeding in order that he may obtain part-time employment in a licensed premises to supplement his income; that he has been living a law-abiding existence for the past six years and, during that time, has not been associated in any capacity with the alcoholic beverage industry in this State.

Three character witnesses (an officer of an auto parts company, a business man and an employee of a diner) testified that they have known petitioner six or more years and that he bears a good reputation in the community in which he lives for being a law-abiding person. The three witnesses were in complete agreement that since being released from the penal institution petitioner has completely rehabilitated himself. The police department of the municipality wherein petitioner resides has advised that there is no complaint or investigation presently pending involving the petitioner.

I am mindful of the fact that these are rehabilitation proceedings and shall be guided by the favorable testimony of the character witnesses. I shall extend to petitioner another chance to prove his worthiness to be associated with the liquor industry in this State. I conclude that such association will not be contrary to public interest.

Accordingly, it is, on this 26th day of April 1960,

ORDERED that petitioner's statutory disqualification, because of the conviction described herein, be and the same is hereby removed in accordance with the provisions of R.S. 33:1-31.2.


William Howe Davis
Director

New Jersey State Library