

Ambrose
Gruber
Amlich *Eg*

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd., Newark, N.J. 07102

BULLETIN 1825

November 7, 1968

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Passaic) - GAMBLING (NUMBERS BETS) - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 120 DAYS, LESS 5 FOR PLEA.
2. DISCIPLINARY PROCEEDINGS (Hoboken) - GAMBLING (NUMBERS BETS) - LICENSE SUSPENDED FOR 60 DAYS.
3. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE TO A MINOR - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
4. STATE LICENSES - OBJECTIONS TO TRANSFER OF PLENARY WHOLESALE LICENSE - APPLICATION GRANTED.
5. DISCIPLINARY PROCEEDINGS (North Bergen) - GAMBLING (NUMBERS BETS) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Paterson) - POSSESSION OF INDECENT MATTER (PHOTOGRAPHS) - LICENSE SUSPENDED FOR 45 DAYS.
7. DISCIPLINARY PROCEEDINGS (Upper Township) - GAMBLING (HORSE RACE BETS) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Seaside Heights) - SALE TO MINORS - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA - EFFECTIVE DATES OF SUSPENSION DEFERRED.
9. DISCIPLINARY PROCEEDINGS (Pennsauken Township) - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Atlantic City) - POSSESSION OF ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
11. DISCIPLINARY PROCEEDINGS (Paterson) - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
12. DISCIPLINARY PROCEEDINGS (Trenton) - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
13. STATE LICENSES - NEW APPLICATION FILED.

Boyle
Boyle
Boyle
Boyle
Boyle
Boyle

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1825

November 7, 1968

1. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 120 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ROBERT E. TRAWINSKI & GEORGE TRAWINSKI
t/a Eddie's Tavern
2 Third Street
Passaic, New Jersey

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-40 issued by the Municipal Board of Alcoholic Beverage Control of the City of Passaic

Licensees, Pro se

Louis F. Treole, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on August 30, 1968, they possessed and permitted numbers slips on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensees have a previous record of suspension of license for twenty-five days effective February 10, 1964, for similar violation. Re Trawinski, Bulletin 1555, Item 2.

The prior record of suspension of license for similar violation within the past five years considered, the license will be suspended for one hundred twenty days, with remission of five days for the plea entered, leaving a net suspension of one hundred fifteen days. Re Mercurio, Bulletin 1798, Item 3; Re Turso, Bulletin 1756, Item 6.

Accordingly, it is, on this 8th day of October, 1968,

ORDERED that Plenary Retail Consumption License C-40, issued by the Municipal Board of Alcoholic Beverage Control of the City of Passaic to Robert E. Trawinski and George Trawinski, t/a Eddie's Tavern, for premises 2 Third Street, Passaic, be and the same is hereby suspended for one hundred fifteen (115) days, commencing at 3:00 a.m. Tuesday, October 15, 1968, and terminating at 3:00 a.m. Friday, February 7, 1969.

JOSEPH M. KEEGAN
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against)

JENNIE MERCURIO, SAM MERCURIO and FRANK MERCURIO 61 - 14th Street Hoboken, New Jersey)

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-97 for the year 1967-68 and C-99 for the year 1968-69 issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken)

----- Michael G. Comunale, Esq., Attorney for Licensees Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

On May 6, 1968, I entered an order herein suspending the license for eighty-five days effective May 13, 1968, upon recitation of the licensees' (then appearing pro se) plea of non vult the charges of (1) permitting playing of card games for money stakes and (2) possession of a numbers slip, and a technical plea of not guilty without contest to Charge (3) of sale to a minor. Re Mercurio, Bulletin 1798, Item 3.

On June 6, 1968, on claim that the plea was entered in error, I entered an amended order permitting withdrawal of the confessional plea to the second charge to afford the licensees a hearing thereon and vacating the sixty-day penalty imposed on that charge pending further determination. Re Mercurio, Bulletin 1806, Item 5.

Licensees have now again pleaded non vult to the charge, thus in effect restoring the matter to its original status. Hence, the sixty-day suspension, deferred by the order of June 6, 1968, will be reimposed.

Accordingly, it is, on this 7th day of October, 1968,

ORDERED that Plenary Retail Consumption License C-99, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Jennie Mercurio, Sam Mercurio and Frank Mercurio for premises 61 - 14th Street, Hoboken, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 a.m. Monday, October 14, 1968, and terminating at 2:00 a.m. Friday, December 13, 1968.

JOSEPH M. KEEGAN DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against EDITH MARIE TEMPLETON t/a Al's Tavern 152-154-156 Fowler Avenue Jersey City, New Jersey

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-309, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City

Licensees, Pro se Louis F. Treole, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on September 14, 1968 she (1) sold a drink of beer to a minor, age 18, in violation of Rule 1 of State Regulation No. 20, and (2) sold a quart bottle of gin for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license will be suspended on the first charge for fifteen days (Re Meisegeir, Bulletin 1815, Item 7) and on the second charge for fifteen days (Re Halliack, Inc., Bulletin 1813, Item 8), or a total of thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 7th day of October 1968,

ORDERED that Plenary Retail Consumption License C-309, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Edith Marie Templeton, t/a Al's Tavern, for premises 152-154-156 Fowler Avenue, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, October 14, 1968, and terminating at 2 a.m. Friday, November 8, 1968.

JOSEPH M. KEEGAN DIRECTOR

4. STATE LICENSES - OBJECTIONS TO TRANSFER OF PLENARY WHOLESALE LICENSE - APPLICATION GRANTED.

In the Matter of Objections to)
the Transfer of Plenary Wholesale)
License W-31 to)

WINE IMPORTS OF AMERICA, LTD.)
1 Loretto Avenue)
Hawthorne, New Jersey)

CONCLUSIONS

from)

WESTERN GRAPE PRODUCTS)
t/a International Wine Co.)
841 Clinton Avenue)
Kenilworth, New Jersey)

-----)
Buchman & Buchman, Esqs., by Abraham M. Buchman, Esq.,
Attorneys for Applicant
N.J. Wine & Spirit Wholesalers Association, by Milton H. Cooper,
Executive Director, an Objector
Monsieur Henri Wines, Ltd., by Herbert Feinberg, Vice President
an Objector

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

An application has been filed for transfer of the plenary wholesale license of Western Grape Products to the applicant, and from premises 841 Clinton Avenue, Kenilworth, to premises 1 and 2 Loretto Avenue, Hawthorne. Written objection to the said transfer having been filed by N.J. Wine & Spirit Wholesalers Association, a hearing was held pursuant to Rule 12 of State Regulation No. 1.

At the hearing the attorney for N.J. Wine & Spirit Wholesalers Association, who is also its Executive Director, appeared on its behalf but called no witnesses. Joining in the objection was Monsieur Henri Wines, Ltd., a New Jersey wholesale licensee, whose vice president testified on its behalf.

The objection set forth in the letter addressed to this Division by the said Association and argued orally at the hearing is grounded upon the contention that the applicant is not qualified under the existing statute to receive the said license.

Carmine A. Lemme, president of the corporate applicant, testified as follows: He is presently engaged with his brother in a similar business known as San Martina Wines, Inc. in the State of New York. Because of a change in his family circumstances, he had decided to disassociate himself from San Martina Wines, Inc. and has organized the applicant corporation in this State. He has made arrangements to purchase the licensed business of Western Grape Products, the proposed transferor, and upon approval of the subject application the applicant will occupy the aforementioned premises in Hawthorne, which consist of a warehouse building and an office building. These premises have been leased to the applicant for the sum of \$100 a month, with an option to purchase the warehouse building for \$555,000. He further testified that, immediately upon the grant of the license, he has by agreement entered into with his father and his brother relinquished his

interest in San Martina Wines, Inc. for the sum of \$80,505.50, said resignation and surrender of his stock therein to take effect within twenty-four hours after the date of the transfer of the said license. A copy of the agreement hereinabove referred to was admitted into evidence.

The witness further stated that the applicant will handle imported and domestic wines, brandies and other spiritous items and will service primarily the northern part of New Jersey. Both he and his wife (who is presently employed by San Martina Wines, Inc.) will be engaged in full-time operation of the license applied for.

On cross examination he admitted that the license of San Martina had been suspended for seven days in February 1968 but that such suspension was deferred upon payment of a monetary penalty. He explained that this suspension came about as the result of a purchase by San Martina Wines, Inc. from Alpine Wine & Liquors of a job lot which was improperly marked. In using the markings of Alpine, San Martina did not open the cases and it was determined that the products were not in "top condition. It was a close-out. It was something they wanted to get rid of." However, he did not handle this transaction personally; it was handled by his brother. This was the only adjudicated record of violation of San Martina.

Herbert Feinberg, vice president of Monsieur Henri Wines, Ltd., objected to the transfer on the ground that he suspects that San Martina intends to expand its operations into New Jersey and is using the applicant as a subterfuge to enable it to operate in this State. He stated that San Martina had hired one of his employees and was seeking to undermine his organization. Because of this alleged subterfuge it was his feeling that the applicant would be in violation of the New Jersey statute.

At the conclusion of the testimony, counsel for the objector N.J. Wine & Spirit Wholesalers Association moved that the application be denied because "as of the date of the filing of the application, this man is not qualified to hold this license." He cited R.S. 33:1-43 (the "tied house" provision) which provides:

"It shall be unlawful for any owner, part owner, stockholder or officer or director of any corporation, or any other person or corporation whatsoever interested in any way whatsoever in any winery, distillery, or rectifying and blending plant, to conduct, own either whole or in part, or be directly or indirectly interested in the business of any licensee for the sale at wholesale to licensed retailers in New Jersey of any alcoholic beverages, other than malt alcoholic beverages, and such interest shall include any payments or delivery of money or property by way of loan or otherwise accompanied by an agreement to sell the product of said winery, distillery or rectifying and blending plant; except that the foregoing shall not apply in the case of a licensee for the sale at wholesale who on July 1, 1965, and thereafter until the effective date of this act, shall have filed for publication by the Division of Alcoholic Beverage Control price listings for brands of alcoholic beverages pursuant to the rules and regulations of the Division of Alcoholic Beverage Control."

He argued that, since San Martina did not price-file on July 1, 1965,

it would come within the proscription of the statute. He concluded that, since Lemme (the president of the corporate applicant) had not completely disassociated himself from San Martina prior to the filing of this application, the application must be denied.

I find this reasoning unrealistic and inconsonant with the statute. I conceive that the only statutory restriction applies as follows: If the license is issued, the applicant may not sell to a retailer until Lemme had disposed of all of his stock in San Martina. But having a license as a wholesaler without selling to a retailer is not forbidden under the statute. Here, an agreement has been entered into by Lemme with San Martina whereby, as set forth in paragraph 4 thereof, "The closing and delivery of the stock is to take place immediately upon notice of approval of application but no later than 24 hours after such notification of Wine Imports of America, Ltd., for a license by the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey." In paragraph 5 it was agreed that Lemme "shall resign as an officer and director of San Martina Wines, Inc., the same to take effect at the time of the closing of the sale of said stock." And by paragraph 6 Lemme "represents and warrants that all documentary and stock transfer stamps taxes required in connection with the issuance and transfer of the stock hereby being sold, have been or will be affixed and cancelled at the time the said stock is delivered pursuant to this agreement."

Under these circumstances, the clear intention of Lemme is to completely divest himself of any and all interest in San Martina Wines within twenty-four hours of the grant of this transfer of license.

The objections raised by both objectors are without merit. I find that Lemme is acting in good faith and intends to fully divest himself of any association with or interest in San Martina Wines, Inc. Since the Director will not issue the said license until there is such divestiture and compliance with the said condition, I further find the approval of the application herein consistent, and not in conflict, with the intention and effect of R.S. 33:1-43.

Accordingly, it is recommended that the said application for person-to-person and place-to-place transfer be approved, expressly subject to effectuation of the terms of the agreement entered into between Carmine A. Lemme and San Martina Wines, Inc., and upon compliance with all procedural requirements.

Conclusions and Order

Written exceptions to the Hearer's report, with supportive argument, were filed with me by the objectors N.J. Wine & Spirit Wholesalers Association and Monsieur Henri Wines, Ltd., and written answer to said exceptions was filed by the attorneys for the applicant.

I have given careful consideration to the transcript of the testimony, the exceptions and the answer to the exceptions. I find the exceptions to be without merit; the request for oral argument on behalf of the objector N.J. Wine & Spirit Wholesalers Association is considered unwarranted and is, accordingly, denied.

I concur in the conclusions of the Hearer and adopt them as my conclusions herein. I shall therefore grant the

application, to take effect upon the effectuation of the terms of the agreement as set forth hereinabove, entered into between Carmine A. Lemme and San Martina Wines, Inc., and upon compliance by the applicant with all procedural requirements.

JOSEPH M. KEEGAN
DIRECTOR

Dated: October 4, 1968

5. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - PRIOR DIS-SIMILAR RECORD - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MARY FAY)
t/a Joe & Mary's Tavern)
8101 Bergenline Avenue)
North Bergen, New Jersey)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-25, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen)

-----)
Joseph N. Falbo, Esq., Attorney for Licensee)
Louis F. Treole, Esq., Appearing for Division of Alcoholic Beverage Control)

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on divers dates between February 21 and April 4, 1968 she permitted acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective July 8, 1962 for sale in violation of State Regulation No. 38, and by the Director for ten days effective December 6, 1966, for possessing an alcoholic beverage not truly labeled (Re Fay, Bulletin 1710, Item 5).

The prior record of suspension of license for dissimilar violation occurring in 1962 more than five years ago disregarded, but the record of suspension for dissimilar violation in 1966 within the past five years considered, the license will be suspended for sixty-five days, with remission of five days for the plea entered, leaving a net suspension of sixty days. Re Castillo deJagua, Inc., Bulletin 1793, Item 5.

Accordingly, it is, on this 7th day of October 1968,

ORDERED that Plenary Retail Consumption License C-25, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen to Mary Fay, t/a Joe & Mary's Tavern, for premises 8101 Bergenline Avenue, North Bergen, be and the same is hereby suspended for sixty (60) days, commencing at 3 a.m. Monday, October 14, 1968, and terminating at 3 a.m. Friday, December 13, 1968.

JOSEPH M. KEEGAN
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - POSSESSION OF INDECENT MATTER (PHOTOGRAPHS) - LICENSE SUSPENDED FOR 45 DAYS.

In the Matter of Disciplinary Proceedings against

JOHN A. CRANER & RAYMOND PILON
t/a Muggsy's Friendly Tavern
839 Main Street
Paterson, New Jersey

Holders of Plenary Retail Consumption License C-224 issued by the Board of Alcoholic Beverage Control for the City of Paterson

Licensees, by John A. Craner, Pro se
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

*Off on Appeal
Sept 9/18/69
Docket # 189-18
del
1877/1*

CONCLUSIONS
and
ORDER

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's report

Licensees pleaded not guilty to the following charge:

"On April 15, 1968, you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing obscene, indecent, filthy, lewd, lascivious and disgusting photographs and pictures, viz., two decks of 'playing cards' one bearing photographic representations and illustrations of nude and/or scantily-clad females in obscene, indecent, lewd and lascivious poses and positions and the other bearing photographic representations and illustrations of male and female persons engaged in acts of sexual intercourse, acts of sexual perversion and other obscene, indecent, filthy, lewd, lascivious and disgusting sexual poses, positions, acts and practices; in violation of Rule 17 of State Regulation No. 20."

The Division bottomed its case on the testimony of two ABC agents and the exhibits introduced in evidence.

Agents S and N testified that they entered the licensed premises (described as an "average neighborhood tavern") to make a routine inspection on April 15, 1968, at approximately 11:40 a.m. They identified themselves to a male tending bar, identified as Macaulay. Behind an advertising sign on a shelf on the back bar and "approximately two feet from the end of the bar, and I would say maybe three feet from the center of the bar where the back bar cash register is located", they found a box bearing the imprint "No. 101 Wonderful 54 Models." Lying on top of this box was a smaller box, unmarked and white in color. The larger box contained playing cards bearing photographs of nude and semi-nude females. The smaller unmarked box contained playing cards bearing photographs of males and females engaged in various acts of sexual intercourse, normal and perverted, and which were undeniably and admittedly pornographic. Both boxes and their contents were received in evidence. Both boxes were unsealed when found and were not contained in any other container or wrapping. After examining the contents of the boxes, the agents informed Macaulay of their discovery.

On cross examination, Agent S testified that the cards were contained inside the boxes. Upon inquiring of Macaulay as to whom they belonged, he replied that he "had no idea."

In defense of the charge, Raymond Pilon, a co-licensee, disclaimed ownership of the boxes. He averred he had no knowledge as to their ownership, had never seen the pictures and, if he had seen the pictures, he would not have permitted them to remain upon the premises. Macaulay was employed as a porter and was tending bar solely due to an emergency. Pilon came into the tavern at approximately "1:30, 2 o'clock in the afternoon" after the agents had departed from the premises. Neither Macaulay nor the regular bartender had any knowledge of the cards.

The co-licensee, John A. Craner, testified that the present licensees assumed control of the licensed premises in February 1967. They did not paint or renovate the tavern and retained the services of the same employees. He then added, "I understood from the investigator the box was found behind an old Schaefer sign, and I don't know the condition that was in or the circumstances."

On cross examination, he testified that the pictures were of the type that if Pilon or the bartender had knowledge of their existence, they would have been shown to him. Neither he nor Pilon had knowledge of their existence.

In rebuttal, Agent S testified that the boxes "were not dusty or anything else; clean, the way they are." He could express no opinion as to the length of time the boxes were in the licensed premises.

In essence, the licensees argued that the Division must prove that they had knowledge that the cards were pornographic or that they "knowingly permitted the illegal activity to have taken place." Precedent has completely destroyed the licensees' argument.

Rule 17 of State Regulation No. 20 provides:

"No licensee shall allow, permit or suffer in or upon the licensed premises or have in his possession or distribute or cause to be distributed any obscene, indecent, filthy, lewd, lascivious or disgusting recording, printing, writing, picture or other matter." (Emphasis added)

In construing this section consideration must be given to the legislative intent, and inquiry should be made to determine if it concluded to make the offense complete without guilty knowledge. The lawmakers may declare an act criminal irrespective of the knowledge or motive of the doer of such act and court has no right to insert an element not intended by the Legislature. Cedar Restaurant & Cafe Co. v. Hock, 135 N.J.L. 156. See also Essex Holding Co. v. Hock, 136 N.J.L. 28 (Sup. Ct. 1947).

The Legislature in R.S. 33:1-73 provided:

"This chapter is intended to be remedial of abuses inherent in liquor traffic and shall be liberally construed."

In Essex Holding Corp. v. Hock, supra, the court held:

"Although statutes penal in character must be construed strictly, the injunction of the legislature as hereabove indicated enjoins us to the contrary in reference to liquor traffic. Kravis v. Hock, 135 N.J.L. 259."

Cedar Restaurant & Cafe Co. v. Hock, supra, was a case wherein it was charged that the licensee "possessed illicit alcoholic beverages at your licensed premises, *** all of which bottles contained alcoholic beverages not genuine as labeled; such possession being in violation of R.S. 33:1-50." The licensee was found guilty after a hearing by the Division. On appeal, the Supreme Court affirmed, holding that there is "nothing within the Alcoholic Beverage Control Act, R.S. 33:1-1, et seq., to indicate an intent that the holder of a retail consumption license must have knowledge that he possesses illicit beverages in order to make him amenable to disciplinary action."

X In Howard Tavern, Inc. v. Division of Alcoholic Beverage Control (App. Div. 1962, not officially reported, reprinted in Bulletin 1491, Item 1), Judge Kilkenny, speaking for the court, stated:

"The word 'suffer' as used in the regulations of the Division of Alcoholic Beverage Control imposes responsibility on a licensee, regardless of knowledge, where there is a failure to prevent the prohibited conduct by those occupying the premises with his authority. Essex Holding Corp. v. Hock, 136 N.J.L. 28, 31 (Sup. Ct. 1947); Benedetti v. Bd. of Com'rs of Trenton, 35 N.J. Super. 30, 34 (App. Div. 1955)."

XX In fact, it has been held that even where an agent engages in proscribed activity against the express instructions of his employer, the licensee may be guilty of such violation. See Greenbrier, Inc. v. Hock, 14 N.J. Super. 39; Olympic, Inc. v. Division of Alcoholic Beverage Control, 49 N.J. Super. 299; Mazza v. Cavicchia, 28 N.J. Super. 280; reversed (on other grounds but affirming the principle just expressed) 15 N.J. 408; cf. Benedetti v. Trenton and Division of Alcoholic Beverage Control, 35 N.J. Super. 30.

After reviewing the precedents cited and the recent case of Re Rubinaccio, Bulletin 1774, Item 2, I have arrived at the inescapable conclusion that the regulation makes the mere possession of indecent matter on the licensed premises a violation. To hold otherwise would render the law sterile and meaningless and would completely frustrate the salutary intendment of the legislation and the regulation promulgated thereunder. Hence, it is recommended that the licensees be found guilty as charged.

Licensees have no prior adjudicated record of suspension of license. I further recommend that the license be suspended for forty-five days. Re Rubinaccio, supra.

Conclusions and Order

Written exceptions to the Hearer's report and argument thereto were filed by the licensees, pursuant to Rule 6 of State Regulation No. 16.

I find that the matters contained in the exceptions have either been considered in detail by the Hearer in his report or are without merit.

Consequently, having considered the entire record herein, including the transcript of the testimony, the exhibits, the Hearer's report and the exceptions and argument filed with reference thereto, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 7th day of October 1968,

ORDERED that Plenary Retail Consumption License C-224, issued by the Board of Alcoholic Beverage Control for the City of Paterson to John A. Craner & Raymond Pilon, t/a Muggsy's Friendly Tavern, for premises 839 Main Street, Paterson, be and the same is hereby suspended for forty-five (45) days, commencing at 3 a.m. Monday, October 14, 1968, and terminating at 3 a.m. Thursday, November 28, 1968.

JOSEPH M. KEEGAN
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE BETS) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CONEY'S, INC.)
t/a Coney's Bar & Liquor Store)
S.W. Side Roosevelt Blvd.)
Upper Township)
PO Marmora, New Jersey)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Upper)
-----)

Morton I. Greenberg, Esq., Attorney for Licensee)
Louis F. Treole, Esq., Appearing for Division of Alcoholic Beverage Control)

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on divers days between May 17 and July 23, 1968 it permitted the acceptance of horse race bets on the licensed premises, in violation of Rule 7 of State Regulation No. 20.

Absent prior record, the license will be suspended for sixty days, with remission of five days for the plea entered, leaving a net suspension of fifty-five days. Re Anisko, Bulletin 1797, Item 12.

Accordingly, it is, on this 3rd day of October 1968,

ORDERED that Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Upper to Coney's, Inc., t/a Coney's Bar & Liquor Store, for premises S.W. Side Roosevelt Blvd., Upper, be and the same is hereby suspended for fifty-five (55) days, commencing at 3 a.m. Thursday, October 10, 1968, and terminating at 2 a.m. Wednesday, December 4, 1968.

JOSEPH M. KEEGAN
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA - EFFECTIVE DATES OF SUSPENSION DEFERRED.

In the Matter of Disciplinary Proceedings against BAMBOO BAR CORP. t/a Bamboo Bar 201 Boulevard Seaside Heights, New Jersey

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Mayor and Borough Council of the Borough of Seaside Heights.

Berry, Whitson & Berry, Esqs., by Franklin H. Berry, Jr., Esq., Attorneys for Licensee Louis F. Treole, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on July 14, 1968 it sold drinks of alcoholic beverages to four minors, three age 18 and one age 19, in violation of Rule 1 of State Regulation No. 20, and (2) in its current application for license failed to disclose its record of license suspension, in violation of R.S. 33:1-25.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective January 2, 1968, for sale during prohibited hours, non-disclosure of which being the subject of the second charge.

The license will be suspended on the first charge for twenty days (Re Fanucci, Bulletin 1791, Item 13) and on the second charge for ten days (Re Gallia, Bulletin 1811, Item 8), to which will be added five days by reason of the record of suspension of license for dissimilar violation occurring within the past five years (Re Meadow View Inn, Inc., Bulletin 1811, Item 7), or a total of thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days.

Recent investigation discloses that the licensed business is presently being conducted only on a minimal basis, following conclusion of the summer season. Thus no effective penalty can be imposed at this time. Hence the effective dates for the suspension will be fixed by the entry of a further order herein after the operation of the licensed business shall have been fully resumed on a substantial basis.

Accordingly, it is, on this 2d day of October 1968,

ORDERED that Plenary Retail Consumption License C-6, issued by the Mayor and Borough Council of the Borough of Seaside Heights to Bamboo Bar Corp., t/a Bamboo Bar, for premises 201 Boulevard, Seaside Heights, be and the same is hereby suspended for thirty (30) days, the effective dates of such suspension to be fixed by further order as aforesaid.

JOSEPH M. KEEGAN DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

DELAIR LIQUOR STORE, INC.)
7936 River Road)
Pennsauken Township)
P.O. Delair, New Jersey)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Distribution License D-7, issued by the Township Committee of the Township of Pennsauken.)

Cahill and Wilinski, Esqs., by Robert Wilinski, Esq., Attorneys for Licensee
Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on September 6, 1968 it sold a six-pack of beer each to two minors, ages 19 and 20, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Ray Russo, Inc., Bulletin 1808, Item 5.

Accordingly, it is, on this 30th day of September 1968,

ORDERED that Plenary Retail Distribution License D-7, issued by the Township Committee of the Township of Pennsauken to Delair Liquor Store, Inc., for premises 7936 River Road, Pennsauken, be and the same is hereby suspended for ten (10) days, commencing at 9 a.m. Monday, October 7, 1968, and terminating at 9 a.m. Thursday, October 17, 1968.

JOSEPH M. KEEGAN
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

CAKERTS ENTERPRISES, INC.)
t/a Carolina Grille)
1221 Atlantic Avenue)
Atlantic City, New Jersey)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-103, issued by the Board of Commissioners of the City of Atlantic City.)

- - - - -)

Frank J. Ferry, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 29, 1968 it possessed alcoholic beverages in three bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Huryk & Tofil, Bulletin 1806, Item 10.

Accordingly, it is, on this 1st day of October 1968,

ORDERED that Plenary Retail Consumption License C-103, issued by the Board of Commissioners of the City of Atlantic City to Cakerts Enterprises, Inc., t/a Carolina Grille, for premises 1221 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for fifteen (15) days, commencing at 7 a.m. Tuesday, October 8, 1968, and terminating at 7 a.m. Wednesday, October 23, 1968.

JOSEPH M. KEEGAN
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOSEPHINE ALOIS)
t/a Alois Five and Ten Club)
177-179 - 20th Avenue)
Paterson, New Jersey)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-317 issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

- - - - -)

Richard Roth, Esq., Attorney for Licensee
Louis F. Treole, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on Sunday, August 11, 1968, she sold a pint bottle of gin for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Halljack, Inc., Bulletin 1813, Item 8.

Accordingly, it is, on this 8th day of October, 1968,

ORDERED that Plenary Retail Consumption License C-317, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Josephine Alois, t/a Alois Five and Ten Club, for premises 177-179 - 20th Avenue, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. Tuesday, October 15, 1968, and terminating at 3:00 a.m. Friday, October 25, 1968.

JOSEPH M. KEEGAN
DIRECTOR

12. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ARGONNE BAR & LIQUOR STORE, INC.)
t/a Plaza House)
121-123 S. Warren St.)
Trenton, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-11, issued by the City Council of the City of Trenton)

Robert L. Solan, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on September 27, 1968 it sold two 6-packs and three quarts of beer respectively to two minors, ages 18 and 19, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Kearny Yacht Club, Bulletin 1750, Item 3.

Accordingly, it is, on this 15th day of October 1968,

ORDERED that Plenary Retail Consumption License C-11, issued by the City Council of the City of Trenton to Argonne Bar & Liquor Store, Inc., t/a Plaza House, for premises 121-123 S. Warren Street, Trenton, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Tuesday, October 22, 1968, and terminating at 2 a.m. Friday, November 1, 1968.

JOSEPH M. KEEGAN
DIRECTOR

13. STATE LICENSES - NEW APPLICATION FILED.

Shore Neighborhood Home Beverage Service
1100 Corlies Avenue
Neptune, New Jersey

Application filed October 30, 1968 for place-to-place transfer of State Beverage Distributor's License SBD-86 from Rear 505 Old Post Road, Edison, New Jersey.


Joseph M. Keegan
Director