

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

March 23, 1965.

BULLETIN 1607

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

March 23, 1965.

BULLETIN 1607

1. APPELLATE DECISIONS - A & C LIQUORS, INC. v. NEWARK.

A & C LIQUORS, INC.,)	
Appellant,)	
v.)	ON APPEAL
)	CONCLUSIONS
)	AND ORDER
MUNICIPAL BOARD OF ALCOHOLIC)	
BEVERAGE CONTROL OF THE CITY)	
OF NEWARK,)	
Respondent.)	

Emanuel N. Silberner, Esq., Attorney for Appellant.
Norman N. Schiff, Esq., by Paul E. Parker, Esq., Attorney
for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

The appellant, A & C Liquors, Inc., the holder of plenary retail distribution license D-67 for premises at 69 Seventh Avenue, Newark, was found guilty by respondent of violation of Rule 1 of State Regulation No. 20 in that it sold and delivered alcoholic beverages at its licensed premises to a minor, and its license was suspended for a period of ten days effective September 28, 1964.

Upon the filing of this appeal challenging such conviction, an order was entered on September 25, 1964, staying respondent's order of suspension until further order of the Director. R.S. 33:1-31.

The effective resolution, in its pertinent part, states as follows:

"And at a hearing duly held thereon, the licensee having pleaded not guilty to the charge above mentioned,

"It was therefore, on the 16th day of September, 1964 on motion duly made and seconded in executive session of said date,

"RESOLVED AND ORDERED that Plenary Retail Distribution License No. D-67, heretofore issued by the Board of Alcoholic Beverage Control to A & C Liquors, Inc., for premises at 69 Seventh Avenue, be suspended for a period of ten (10) days, said period of suspension to commence on Monday, September 28, 1964 at 7:00 a.m., and to terminate on Thursday, October 8, 1964 at 7:00 a.m."

It should be noted that, contrary to approved practice, no specific finding of guilt was set forth in the resolution nor

were any facts set forth upon which such finding was presumably grounded. Cf. Fanwood v. Rocco et al., 33 N.J. 404; Rokay Wines and Liquors, Inc. v. Passaic, Bulletin 1198, Item 1.

In its petition of appeal appellant alleged that the respondent's action was erroneous for reasons which may be summarized as follows: (a) the resolution and order of suspension is invalid because it has no support in the record of the hearing and is "directly contrary to the actual proceeding held at the hearing on the aforesaid charge;" (b) the adjudication of guilt was contrary to the weight of the evidence, was based on the uncorroborated testimony of the alleged minor and was not established by the preponderance of the evidence, and (c) no legally supported evidence was presented at the hearing to establish the age of the alleged minor.

Respondent in its answer alleges that it acted within its sound discretion after full hearing on the charge preferred against the appellant.

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15. The stenographic transcript of the hearing below was submitted on notice authorized by Rule 8 of State Regulation No. 15, which transcript was supplemented at this hearing by documentary evidence submitted on behalf of the appellant. In addition to this I directed the appearance of the alleged minor and heard his testimony at a continued hearing herein.

The sum total of the testimony adduced reflects the following: John --- (the alleged minor) testified at the hearing below that he is twenty years of age and was born on December 23, 1944. On the date in question he entered the licensed premises of the appellant and purchased whiskey and beer and consumed the same shortly thereafter in the company of two of his friends. At the time of the purchase he was not required to produce any identification nor was any inquiry made of his age. He further testified that he is six feet tall, weighs 155 pounds, and is a graduate of the Lincoln High School in Charlotte, North Carolina.

His two friends were called as witnesses and both denied seeing this alleged minor enter the licensed premises because they insisted that the store was outside their line of vision. No other corroborating evidence was offered in support of John's testimony.

The appellant produced the manager and principal stockholder of the corporate licensee, and a clerk employed by the said appellant, who vigorously denied that any alcoholic beverages were sold to this alleged minor; that in fact this alleged minor never entered the premises on the date and time in question.

At the hearing before me the appellant produced certificates of the New Jersey State Department of Health establishing that there is no record of the birth of this alleged minor in 1944 or in 1940. In addition to that there was admitted into evidence the Keyport, New Jersey, Elementary School record of John --- which shows that this alleged minor attended that school. On this record it sets forth his birth date as December 23, 1940, and that he attended this ungraded school

from March 15, 1950 until September 18, 1950. This would thus indicate that this alleged minor was in fact twenty-three years of age on the date charged herein.

At the continued hearing of this matter the alleged minor was closely questioned by me with respect to his age and made the following admissions: (a) he never graduated grammar school and in fact attended an ungraded school; (b) that he falsely testified at the hearing below that he graduated high school whereas in fact he never attended high school; (c) that he attended the Keyport school, and that the names of his parents as set forth on the record of that school are correct; (d) that the only basis he has for determining his age was that his deceased grandmother told him of his birthday when he was nine years of age; (e) that he didn't know exactly how old he was because "I couldn't say that because I really don't know."

The established rule in these proceedings is that, normally, testimony by a minor himself is legally sufficient to establish his age. State v. Girone, 91 N.J.L. 398; State v. Huggins, 83 N.J.L. 43; Melstan Corporation v. Randolph, Bulletin 1496, Item 1. However, the documentary evidence offered in rebuttal of this testimony, together with the admission of the alleged minor that he does not truly know his age or date of birth, convince me, and I so find, that John --- was not a minor on the date charged herein.

In view of the aforesaid, I find that the respondent has failed to establish by a fair preponderance of the believable evidence that the appellant sold and delivered alcoholic beverages to a minor in violation of Rule 1 of State Regulation No. 20.

I therefore recommend that the action of the respondent be reversed, and that the charge preferred against the appellant be dismissed.

Conclusions and Order

No exceptions to the Hearer's Report were filed within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including the transcript of testimony, the oral argument of counsel at the conclusion of the case and the Hearer's Report, I concur in the finding and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 9th day of February 1965,

ORDERED that the action of respondent be and the same is hereby reversed, and that the charge preferred against the appellant be and the same is hereby dismissed.

JOSEPH P. LORDI
DIRECTOR

2. APPELLATE DECISIONS - STOP-INN, INC. v. SOUTH TOMS RIVER.

STOP-INN, INC.,)	
Appellant,)	ON APPEAL
v.)	ORDER
MAYOR AND BOROUGH COUNCIL OF)	
THE BOROUGH OF SOUTH TOMS RIVER,)	
Respondent.)	

 Ewart, Lomell, Muccifori & Adler, Esqs., by Thomas J. Muccifori,
 Esq., Attorneys for Appellant.
 William H. Huber, Esq., Attorney for Respondent.

BY THE DIRECTOR:

Appellant appeals from denial by respondent of its application for transfer of its plenary retail consumption license from premises Flint Road to premises 380 Dover Road, South Toms River.

Prior to the Hearing on appeal, by letter dated February 9, 1965, the attorneys for appellant advised me that the appeal was withdrawn. No reason appearing to the contrary,

It is, on this 10th day of February 1965,

ORDERED that the appeal herein be and the same is hereby dismissed.

JOSEPH P. LORDI
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS AND HORSE RACE BETS) - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against JOSEPH LA MAGNA t/a JOE'S TAVERN 376 Duncan Avenue Jersey City, N. J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-233, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Galvin, French, Palladino and Nardolilli, Esqs., by Joseph P. Palladino, Esq., Attorneys for Licensee. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

"1. On July 15, 21, 22, 23, 27, 30 and August 13, 1964, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets in a lottery, commonly known as the 'numbers game' on said dates of July 21, 22, 23, 27, 30, and August 13, 1964, and on horse racing on said dates of July 15 and 27, 1964; in violation of Rule 7 of State Regulation No. 20.

"2. On July 21, 22, 23, 27, 30 and August 13, 1964, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game' to be sold and offered for sale in and upon your licensed premises and on said date of August 13, 1964, you possessed, had custody of and allowed, permitted and suffered such tickets and participation rights in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

The Division offered the testimony of two members of the New Jersey State Police (hereinafter referred to as Detective H and Detective B) in substantiation of the charges.

Inasmuch as it is my view that there appears to be a lack of necessary preponderance of the evidence to find the licensee guilty of the charges based upon the occurrence of July 30, 1964, I shall confine my references to the events of the other dates mentioned in the charges.

Detective H's testimony may be summarized as follows: On July 15, 1964, at 1 p.m., he visited the licensed premises and, after ordering a drink at the bar, he sat at a small table near the front entrance at which there was seated a male person. He observed the male person reading the racing page of the New

York Daily News, pull a piece of paper from his shirt pocket, write a horse race wager thereon, take \$45 from his wallet, fold the money into the slip of paper, get up from the table, proceed to where the licensee was standing near the lunch counter and hand the slip of paper and the folded money to the licensee who put it in his pocket and walked into the rear room.

As to the occasion of July 21, 1964, Detective H testified that he visited the licensed premises at 12:30 p.m., sat at the end of the bar near the lunch counter, observed a male seated to his left place a slip of paper containing rows of numerals (which he identified as a numbers slip) on the bar at his left elbow. This male then handed the slip of paper and some money which he took out of his pocket to the licensee who came out of the rear room, whereupon licensee returned to the rear room.

As to the visit of July 22, 1964, he testified that he visited the licensed premises at 1:35 p.m., sat at the bar, observed the licensee standing near doorway of the rear room, a television commercial came on which spotlighted the rear of an automobile, its name, emblem and registration plate bearing the digits "151." Two patrons standing alongside the officer began talking about playing the number 151, left the bar, proceeded to table about ten feet away, at which a man was seated, placed coins on the table, one of them said "151 straight." The man seated at the table pulled a small notebook from his hip pocket and began writing on it. The detective left his place at the bar, went to this person at the table who then accepted a numbers bet from the officer. At this time another patron came to the table and said, "I want to get on that 151 too", handed the numbers writer a quarter and a fifty-cent piece, and said "seventy-five cents straight." At this point he observed the licensee come out of the rear room (which was about fifteen feet away from where the activity took place), call out to the numbers writer "Quiet it down. Don't forget my license." Thereafter the licensee and the person who was writing numbers went to a corner where the officer observed the numbers writer hand some money and the top page which he tore out of the notebook to the licensee.

The detective testified that he again visited the licensed premises on July 23, 1964, at 1:10 p.m., saw the person with whom he played the number 151 on the previous day seated at a table, and gave him a numbers bet which he wrote in a notebook he used the day previous. The licensee was not observed in the premises at that time.

As to the visit of July 27, 1964, the detective testified that he entered the licensed premises at 1:40 p.m. and proceeded to place a numbers bet with the same individual he had placed bets with the two previous days. Thereafter he sat at the bar and seated himself next to a patron who was reading the racing page of the Newark Star-Ledger. The patron reached over the bar, got a white pad of paper and wrote thereon an item which he described as a horse race bet in the amount of \$20. The patron took money from his wallet, took the page off the pad, went to the entrance of the rear room and handed them to the licensee who was standing near the doorway.

A lengthy and searching cross examination proved mainly corroborative of the detective's testimony on direct.

Detective B testified that on August 13, 1964, he entered the licensed premises, went directly to a rear room which

appeared to be used as a combination office and stockroom, and found the licensee seated at the desk. During the course of conducting a search of this room he saw a napkin dispenser which fell apart as he picked it up. He found three brown paper pay envelopes inside the napkin dispenser and inside of one envelope he found several assorted size paper slips containing numbers which he stated was a lottery bet slip commonly referred to as the numbers game. Upon continuing the search the licensee stated to the detective, "there was no use looking, there was no more bets -- slips around."

The licensee produced no testimony in his behalf.

It is pertinent to point out that in State v. Martinek, 12 N.J. Super. 320 (App. Div. 1951), where, among other things, betting slips were admitted as exhibits in evidence, Judge Eastwood said:

"Property found near scene of crime, and concerning which there is evidence showing or tending to show its ownership or possession by accused when crime was committed, may be exhibited to jury, as may any property sufficiently identified which throws light upon crime or connects accused with it, and is shown to have come from his possession or to have been found on his premises, or, there being sufficient evidence to implicate him, on premises of a co-conspirator."

Judge Eastwood further stated:

"The admission of betting slips, racing forms and other gambling paraphernalia found on premises in possession of accused is generally recognized as evidence from which jury might conclude the guilt or innocence of accused on indictment for bookmaking."

See also, 22A C.J.S. Criminal Law, sec. 710.

In State v. Fiorello, 36 N.J. 80, 91, 92 (Sup. Ct. 1961), Justice Jacobs, speaking for the court, upheld the admission into evidence of tally or record sheets which the State's expert witness testified resembled tally sheets or records found during gambling investigations he had conducted in the past. Justice Jacobs also remarked that:

"The ingenuity of bookmakers and the sparcity of their recorded indicia have been frequently noted, and while courts must be alert to avoid the lessening of the procedural safeguards to which persons accused of bookmaking are fairly entitled, they must be equally alert to avoid the frustration of bookmaking prosecutions legitimately based on inferences which may reasonably be drawn from furtive conduct and scanty records."

It is axiomatic that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373, 378 (1956); Hornauer v. Division of Alcoholic Beverage Control, 40 N.J. Super. 501, 503. This principle was restated in the recent case of Howard Tavern, Inc. v. Division of Alcoholic Beverage Control (App. Div. 1963), not officially reported, reprinted in Bulletin 1491, Item 1, where the court said:

"The truth of charges in a proceeding before an administrative agency need be established only by a preponderance of the believable evidence, not beyond a reasonable doubt. *Atkinson v. Parsekian*, 37 N.J. 143, 149 (1962)."

The general rule in these cases is that the finding must be based on competent legal evidence and must be grounded on a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32 C.J.S. Evidence, sec. 1042.

My evaluation and consideration of the testimony lead me to the conclusion that the Division has established the truth of the charges herein by a fair preponderance of the evidence, and I recommend that the licensee be found guilty of said charges which particularly refer to the dates of July 15, 21, 22, 23, 27 and August 13, 1964 only, and I further recommend that there be a finding of not guilty of the charges which relate to July 30, 1964.

The licensee has a previous record of suspension of license by the municipal issuing authority for twenty days effective January 22, 1951, for permitting bookmaking and gambling on the licensed premises. It is recommended that the prior record of similar violation be disregarded because occurring more than ten years ago, and that the license be suspended for sixty days. Re Mellolark, Inc., Bulletin 1573, Item 2.

Conclusions and Order

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

I have carefully considered the record herein, including the transcript of the testimony, the exhibits, the argument of counsel at the hearing, the memorandum filed in behalf of the licensee and the Hearer's Report. I find no merit in the legal arguments raised at the hearing or in the memorandum of law submitted in behalf of the licensee. Hence, I concur in the findings of the Hearer and adopt his recommendations.

Accordingly, it is, on this 8th day of February 1965,

ORDERED that Plenary Retail Consumption License C-233, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Joseph La Magna, t/a Joe's Tavern, for premises 376 Duncan Avenue, Jersey City, be and the same is hereby suspended for sixty (60) days, commencing at 2 a.m. Monday, February 15, 1965, and terminating at 2 a.m. Friday, April 16, 1965.

JOSEPH P. LORDI
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE BETS) -
LOTTERY (POSSESSION OF NUMBERS SLIPS) - LICENSE SUSPENDED FOR
60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

ANNA NARO CUFFARI and)
JOSEPHINE LABATO)
t/a FLORENTINE CAFE)
941 S. 4th Street)
Camden, N. J.)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption)
License C-78, issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Camden.)

Joseph P. DeLuca, Esq., Attorney for Licensees.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to charges alleging that
(1) on October 28 and 30, November 9, 13 and 23 and December 3,
4 and 15, 1964, they permitted the acceptance of horse race
bets on the licensed premises, in violation of Rule 7 of State
Regulation No. 20, and (2) on December 15, 1964, they possessed
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 sixty days, with remission of five days for the plea
entered, leaving a net suspension of fifty-five days. Re
Mellolark, Inc., Bulletin 1573, Item 2.

Accordingly, it is, on this 9th day of February 1965,

ORDERED that Plenary Retail Consumption License C-78,
issued by the Municipal Board of Alcoholic Beverage Control of
the City of Camden to Anna Naro Cuffari and Josephine Labato,
t/a Florentine Cafe, for premises 941 S. 4th Street, Camden, be
and the same is hereby suspended for fifty-five (55) days,
commencing at 2 a.m. Tuesday, February 16, 1965, and terminating
at 2 a.m. Monday, April 12, 1965.

JOSEPH P. LORDI
DIRECTOR

5. DISCIPLINARY PROCEEDINGS -- SALE DURING PROHIBITED HOURS - FALSE STATEMENT IN LICENSE APPLICATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

TUNNEL HILL CORPORATION
t/a TUNNEL HILL TAVERN
Oxford-Karrsville Road
Mansfield Township
PO Oxford, R.D., N. J.

)
)
) CONCLUSIONS
) AND ORDER
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)
)

Holder of Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Mansfield.

Edward E. Stover, Esq., by Benjamin V. Dall, Esq., Attorney for Licensee.

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

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) and (2) on January 16, 1965, it sold drinks of alcoholic beverages after 3:00 a.m., in violation of municipal ordinance, and (3) in its current application for license, it failed fully to disclose the record of license suspension of Joseph Dackow, its officer, director and 49% stockholder, in violation of R.S. 33:1-25.

Although the licensee corporation has no previous record of suspension of license, the license for the same premises then held by Joseph Dackow was suspended by the municipal issuing authority for five days (with operation of penalty suspended) on October 9, 1946, for local hours violation (concealment of this suspension being the subject of the third charge herein) and by the Director for ten days effective July 6, 1959, for sale to minors. Re Dackow, Bulletin 1291, Item 5.

The prior record of suspension for similar and dissimilar violation occurring, respectively, more than ten and five years ago disregarded for penalty purposes, the license will be suspended on the first and second charges for fifteen days (Re City Hall Bar & Grill, Bulletin 1590, Item 11) and on the third charge for ten days (Re Rosman, Bulletin 1600, Item 10) or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 10th day of February, 1965,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Mansfield to Tunnel Hill Corporation, t/a Tunnel Hill Tavern, for premises on Oxford-Karrsville Road, Mansfield Township, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. Wednesday, February 17, 1965, and terminating at 3:00 a.m. Tuesday, March 9, 1965.

JOSEPH P. LORDI
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING BALANCE OF SUSPENSION AFTER DENIAL OF FURTHER STAY BY APPELLATE DIVISION.

In the Matter of Disciplinary Proceedings against)

JEANNIE & SONNY'S NO. 3 CLUB, INC.)
t/a JEANNIE & SONNY'S NO. 3 CLUB, INC.)
3 Thomas Street)
South River, N. J.)

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of South River.)

Howard L. Toft, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On December 28, 1964, I entered Conclusions and Order herein suspending the license for sixty days commencing at 2:00 a.m. Monday, January 4, 1965, and terminating at 2:00 a.m. Friday, March 5, 1965, for permitting acceptance of horse race bets on the licensed premises. Re Jeannie & Sonny's No. 3 Club, Inc., Bulletin 1598, Item 6.

After effectuation of the order of suspension but before its expiration, upon appeal filed, by order dated February 11, 1965 the Appellate Division of the Superior Court stayed the suspension until February 15, 1965. The license certificate was thereupon returned to the licensee at 3:00 p.m. on February 11, 1965, to permit resumption of the licensed business.

On February 15, 1965, application for further stay pending determination of the appeal was denied. The balance of the suspension may now be reimposed.

Accordingly, it is, on this 16th day of February, 1965,

ORDERED that the balance of the sixty-day suspension, interrupted at 3:00 p.m. February 11, 1965, be reinstated against Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of South River, to Jeannie & Sonny's No. 3 Club, Inc., t/a Jeannie & Sonny's No. 3 Club, Inc., for premises 3 Thomas Street, South River, commencing at 3:00 p.m. Tuesday, February 16, 1965, and terminating at 2:00 a.m. Wednesday, March 10, 1965.

JOSEPH P. LORDI
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against MARY M. LUKAS t/a MELODY INN 444 - 59th Street West New York, New Jersey

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-72, issued by the Board of Commissioners of the Town of West New York.

Samuel Raffaelo, Esq., Attorney for Licensee. Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on October 31, 1964, she (1) and (2) sold alcoholic beverages after 3:00 a.m. during hours prohibited by local ordinance and (3) hindered investigation (by destruction of evidence and otherwise), in violation of R.S. 33:1-35.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days effective September 9, 1951, for local hours violation.

The prior record of suspension of license for similar violation occurring more than ten years ago disregarded, the license will be suspended on the first and second charges for fifteen days (Re City Hall Bar & Grill, Bulletin 1590, Item 11) and on the third charge for ten days (Re Gitter, Bulletin 1575, Item 2) or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 10th day of February, 1965,

ORDERED that Plenary Retail Consumption License C-72, issued by the Board of Commissioners of the Town of West New York to Mary M. Lukas, t/a Melody Inn, for premises 444 - 59th Street, West New York, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. Wednesday, February 17, 1965, and terminating at 3:00 a.m. Tuesday, March 9, 1965.

JOSEPH P. LORDI DIRECTOR

8. DISQUALIFICATION REMOVAL PROCEEDINGS - CONVICTION OF CRIME COMMITTED UNDER 18 YEARS OF AGE HELD NOT TO INVOLVE MORAL TURPITUDE.

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

) CONCLUSIONS

Case No. 1893)

BY THE DIRECTOR:

Petitioner's criminal record discloses that in 1944, at the age of 16; he was convicted in a local magistrate's court for larceny of an automobile and in 1945, at the age of 17, he was twice convicted in the same court for petty larceny; that on his first conviction he was sentenced to serve twenty days in a county workhouse, on his second conviction he was fined \$25 and on his third conviction he was sentenced to serve sixty days in the county workhouse. It further appears that in 1945 and in 1947, petitioner was adjudged a disorderly person and in 1945 was convicted of a motor vehicle violation.

Generally, the crime of larceny involves the element of moral turpitude when committed by an adult and would preclude such person from engaging in the alcoholic beverage industry in this State. R.S. 33:1-25, 26. However, considering the fact that petitioner was under 18 years of age at the time of the commission of the crimes, it is my opinion that the offenses did not involve that element. Re Elig. No. 36, Bulletin 149, Item 1.

Having considered petitioner's record, I am satisfied that he has never been convicted of a crime involving moral turpitude. Under the circumstances, petitioner, if otherwise fully qualified, is not ineligible to be associated with the alcoholic beverage industry in this State because of his aforesaid record.

Dated: February 9, 1965

JOSEPH P. LORDI
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

FRANCES M. PREGNOR)
t/a BILLINGSPOORT GRILLE)
106 Billingsport Road)
Paulsboro, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Borough Council of the Borough of Paulsboro.)

Licensee, Pro se.

Morton B. Zemel, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 18, 1965, she 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.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days effective October 26, 1958, for sale to minors, by the Director for forty days effective May 29, 1963, for sale to an intoxicated person, permitting foul language and hindering investigation (Re Pregnor, Bulletin 1517, Item 8), and by the municipal issuing authority for twenty days effective September 27, 1964, for sale to minors.

The prior record of suspension of license for dissimilar violation occurring more than five years ago disregarded but the record of two suspensions of license for dissimilar violation occurring within the past five years considered, 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 Zotto's Corp., Bulletin 1583, Item 7.

Accordingly, it is, on this 16th day of February, 1965,

ORDERED that Plenary Retail Consumption License C-3, issued by the Borough Council of the Borough of Paulsboro to Frances M. Pregnor, t/a Billingsport Grille, for premises 106 Billingsport Road, Paulsboro, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Tuesday, February 23, 1965, and terminating at 2:00 a.m. Wednesday, March 10, 1965.

JOSEPH P. LORDI
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

KIT-KAT CLUB, INC.)
t/a KIT-KAT CLUB)
42 West Broadway)
Paterson, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-148, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

Sidney B. Rosenthal, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 20, 1965, it sold drinks of beer to a minor, age 20, in violation of Rule 1 of State Regulation No. 20.

Although the licensee corporation has no previous record, the license then held by George Shaw (40% stockholder of the licensee corporation) for premises 415 Washington Street, Newark, was revoked by the Director effective August 9, 1954, for permitting solicitation for prostitution (Re Shaw, Bulletin 1028, Item 1) and the license of Brick's Bar, Inc. (in which corporation George Shaw was treasurer and principal stockholder) for premises 205-207 Water Street, Paterson, was suspended by the Director for fifteen days effective January 4, 1960, for sale in violation of State Regulation No. 38 (Re Brick's Bar, Inc., Bulletin 1322, Item 6).

The prior record of revocation and suspension for dissimilar violations occurring more than five years ago disregarded, 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 Painsi, Bulletin 1538, Item 7.

Accordingly, it is, on this 15th day of February, 1965,

ORDERED that Plenary Retail Consumption License C-148, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Kit Kat Club, Inc., t/a Kit Kat Club, for premises 42 West Broadway, Paterson, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. Monday, February 22, 1965, and terminating at 3:00 a.m. Saturday, February 27, 1965.

JOSEPH P. LORDI
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

HUBRO INDUSTRIES, INC.)
t/a MATAWAN WINE & LIQUOR STORE)
120 Main Street)
Matawan, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-2, issued by the Borough Council of the Borough of Matawan.)

Licensee, by George P. Hubeny, President, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

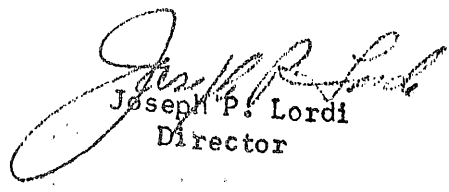
BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 25, 1965, it sold four quart bottles of whiskey and three 4/5 quart bottles of whiskey at less than filed price, in violation of Rule 5 of State Regulation No. 30.

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 Buikema, Bulletin 1590, Item 12.

Accordingly, it is, on this 15th day of February, 1965,

ORDERED that Plenary Retail Distribution License D-2, issued by the Borough Council of the Borough of Matawan to Hubro Industries, Inc., t/a Matawan Wine & Liquor Store, for premises 120 Main Street, Matawan, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. Monday, February 22, 1965, and terminating at 9:00 a.m. Saturday, February 27, 1965.


Joseph P. Lordi
Director