

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

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JANUARY 23, 1959

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THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY

RECEIVED
JAN 10 1964

FROM
DR. J. H. DUNN

TO
DR. J. H. DUNN

SUBJECT
RESEARCH REPORT

DATE
JAN 10 1964

BY
DR. J. H. DUNN

FOR
RESEARCH REPORT

ON
RESEARCH REPORT

OF
RESEARCH REPORT

IN
RESEARCH REPORT

OF
RESEARCH REPORT

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

BULLETIN 1259

JANUARY 23, 1959

1. APPELLATE DECISIONS - NEW JERSEY RETAIL LIQUOR STORES ASSN.
AND KELLY v. BORDENTOWN AND CHICKEN BARN, INC.

NEW JERSEY RETAIL LIQUOR STORES)
ASSOCIATION AND JOE KELLY,)

Appellants,)

v.)

TOWNSHIP COMMITTEE OF THE TOWNSHIP)
OF BORDENTOWN AND CHICKEN BARN, INC.,)

Respondents.)

ON APPEAL
CONCLUSIONS AND ORDER

Samuel Moskowitz, Esq., Attorney for Appellants.
William H. Wells, Esq., Attorney for Respondent Township Committee.
Grover C. Richman, Jr., Esq., Attorney for Respondent Chicken Barn, Inc.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of the respondent Township Committee whereby it approved the transfer of a plenary retail consumption license from Herman F. Durr to Chicken Barn, Inc., and from premises Route 130, Dunn's Mill Road, to premises located at Route 206, Piersonville, Bordentown Township.

"Two of the members of respondent Committee voted to approve the transfer and one voted to deny the application.

"Appellants contend in their petition of appeal filed herein that the action of the respondent Committee was erroneous in that (a) the granting of the transfer of the said license is socially undesirable, (b) there is no public need or necessity for the transfer of said license to the premises in question inasmuch as the area is amply served by the present existing outlets, (c) the granting of the transfer of said license is in violation of the Alcoholic Beverage Control laws and regulations of the State of New Jersey, (d) the Township Committee of the Township of Bordentown, New Jersey, is guilty of an abuse of discretion and mistake of law in granting the transfer of said license, and (e) the granting of said transfer of license to the respondent Chicken Barn, Inc., was arbitrary and unreasonable.

"The record herein discloses that, some time prior to the approval of the person-to-person and place-to-place transfer of the license in question, a prior application for a similar transfer was unanimously denied by the respondent Committee. The two members of the Committee (i.e., Felix Mark and William H. Fasick) who voted on the prior application to deny the transfer and who voted to approve the application now under consideration testified at the hearing held herein. Both testified that, when they voted to deny the transfer, they were under the impression that the said license was to be

transferred to premises wherein other mercantile business was to be conducted. However, when the present application was filed, they visited the proposed premises and ascertained that the part of the building which would constitute the licensed premises was separate and apart from any other business establishment and that the entrance thereto was gained through a separate door. Thus both Committeemen Mark and Fasick testified that they were of the opinion that they had erred when voting to deny the previous application.

"Committeeman Andrew Coltesz testified that he was opposed to the transfer of the license in question to the proposed site because he is not in favor of permitting a plenary retail consumption license in a shopping center.

"The question as to whether or not there is a need or necessity for a liquor outlet at a particular location is within the sound discretion of the issuing authority. Furthermore, the number of licensed premises to be permitted in any particular area is also a matter confided to the sound discretion of the issuing authority. See DeCapua v. Ocean, Bulletin 941, Item 1. Insofar as the testimony of the Committeemen is concerned, there appears to be a real difference of opinion as to whether or not the majority of the members of the respondent Committee acted in accordance with the general welfare of the community. There was absolutely no evidence that any member of the Committee was improperly motivated. The most that has been shown is that there appears to be an honest difference of opinion among the members of the respondent Committee. The Director has said on many occasions that there is room for latitude of opinion in cases of this kind; furthermore, that his function on appeals of the type under consideration is to determine whether reasonable cause exists for the issuing authority's opinion and, if so, to affirm. Curry v. Margate City, Bulletin 460, Item 9; Mulcahy v. Maplewood, Bulletin 658, Item 4.

"After careful consideration of all the testimony presented in this matter, I am satisfied that the majority of the respondent Committee acted in good faith when they voted to approve the application to transfer. There does not appear to be any mistake of law or violation of any of the regulations of this Division. Furthermore, there is no evidence that there has been an abuse of discretion or that the action of the respondent Committee was arbitrary and unreasonable. Under the circumstances, I recommend that the action of the respondent Committee in approving the application to transfer the license in question to the proposed site be affirmed."

No exceptions to the Hearer's Report were filed within the time limited by Rule 14 of State Regulation No. 15. Having carefully considered all the facts and circumstances herein, I concur in the Hearer's findings and conclusions and adopt his recommendation.

Accordingly, it is, on this 7th day of January, 1959,

ORDERED that the action of respondent Township Committee be and the same is hereby affirmed, and that the appeal be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - WOODS, EXECUTRIX, v. NEWARK.

NORA WOODS, EXECUTRIX OF THE
ESTATE OF WILLIAM WOODS, DECEASED,

Appellant,

v.

MUNICIPAL BOARD OF ALCOHOLIC
BEVERAGE CONTROL OF THE CITY OF
NEWARK,

Respondent.

ON APPEAL
CONCLUSIONS AND ORDER

Lesnik & Amoscato, Esqs., by John J. Egan, Esq., Attorneys for
Appellant.

Vincent P. Torppey, Esq., by James E. Abrams, Esq., Attorney
for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby on June 10, 1958 it denied, by resolution, appellant's application for a place-to-place transfer of License C-230 from premises 258 Prince Street to premises 101 Monmouth Street, Newark.

"Appellant alleges in substance that respondent's action was erroneous in that it was against the weight of the evidence, an abuse of respondent's discretionary powers and that there is a need for a license at the proposed site of transfer.

"Respondent contends that its action was predicated upon the factual testimony adduced at the hearing before it from which, in its sound discretion, it decided that the transfer should be denied.

"The hearing herein was held de novo, pursuant to Rule 6 of State Regulation No. 15 and the transcript of the proceedings before respondent Board was received in evidence pursuant to Rule 8 of the aforesaid Regulation. Respondent then rested.

"In lieu of presenting additional testimony, appellant's attorney argued that appellant and her late husband had operated the Prince Street tavern for twenty-two years and suffered but one violation to occur therein about sixteen years ago; that said premises were demolished by the Newark Housing Authority and through no fault of her own, appellant is forced to locate elsewhere; that there is a definite need for a plenary retail consumption license in the neighborhood; that the proposed site is in a modern brick building wherein there is presently a pool parlor which the licensed premises will supplant; that the denial of the transfer amounts to a revocation of appellant's license; that in the area in question there are 27,000 residents and that the reasons advanced by the objectors are inconsequential. It appears that both premises mentioned herein are within the 'Old Third Ward' which, admittedly, is being redeveloped.

"A review of the transcript of the proceedings below discloses

that three property owners who reside within 200 feet of the proposed site of transfer and thirteen other residents appeared as objectors to the transfer. Five were called to testify. The first objected because patrons of the tavern would sit on his stoop and drink liquor and because of the traffic and parking situation. The second objected because there are plenty of liquor stores in the area. The third objected because of the noise in the vicinity and the existing parking problem. The fourth objected because of the large number of children living in the neighborhood, and the fifth objected because her children would have to pass the tavern on the way to school. After hearing the aforesaid testimony which is succinctly stated herein, respondent passed the following resolution:

'Resolution adopted resolving that this application for place to place transfer be and the same is hereby denied, by reason of the fact that the board, after consideration of all of the testimony and evidence and facts concerning the application, as well as the testimony of the objectors, and proponents, as well as in its own discretion, finds the number of liquor outlets in this area to be sufficient, and therefore unanimously denies the application on this third day of June, 1958.'

"It has been held repeatedly that the number of licenses which should be permitted in any particular area is a matter confided to the sound discretion of the issuing authority. The Director's function on appeal is not to substitute his personal opinion for that of the issuing authority, but merely to determine whether a reasonable cause exists for its opinion and, if so, to affirm, irrespective of his personal view on the subject. Wilson's Liquor Store, Inc. v. Clifton and Angiulli, Bulletin 1170, Item 2, and cases cited therein.

"Considering all of the evidence herein, I cannot find that the members of respondent Board were improperly motivated or that they acted in an arbitrary, capricious or unreasonable manner in arriving at their determination. I conclude that appellant has not sustained the burden of proof imposed upon her in establishing that respondent Board acted in an erroneous manner. Rule 6 of State Regulation No. 15. I recommend, therefore, that the action of respondent Board in denying appellant's application for transfer of her license be affirmed."

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

Having carefully considered the facts and circumstances herein, I concur in the Hearer's findings and conclusions and adopt his recommendation.

Accordingly, it is, on this 5th day of January, 1959,

ORDERED that the action of respondent Municipal Board of Alcoholic Beverage Control of the City of Newark be and the same is hereby affirmed and that the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(PERMITTING THE MAKING OF ARRANGEMENTS FOR ILLICIT SEXUAL
INTERCOURSE) - PRIOR RECORD - LICENSE SUSPENDED FOR BALANCE
OF TERM.

In the Matter of Disciplinary)
Proceedings against)

PHYLLIS MINCHIN)
t/a 31 CLUB)
31 Belmont Avenue)
Garfield, New Jersey)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-11, issued by the Mayor and)
Council of the City of Garfield.)

Joseph H. Gaudielle, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On July 18, 19 and 20, 1958, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises and your licensed place of business to be conducted in such manner as to become a nuisance, viz., in that you and a person employed on your licensed premises participated with and allowed, permitted and suffered the making of overtures and arrangements by a female patron or customer for acts of perverted sexual relations with male patrons and customers; in violation of Rule 5 of State Regulation No. 20."

The facts are that, on the first date alleged in the charge, ABC agents visited defendant's licensed premises and observed therein a female named Alice who entered and left the premises four or five times with different male patrons. On each occasion the licensee would escort her to the front door, open it and look out. The agents inquired of Fred (the bartender) if Alice was available for illicit sexual relations and, after Fred conferred with the licensee, he informed them that Alice would return in a few minutes; that two other men were waiting for her; that he would arrange to have her meet them and that she would engage in perverted sex acts. The agents agreed with Fred to meet Alice on the following night, and departed.

On the following night the agents returned as promised and observed Alice leave the premises with two males. Fred asked if they wanted Alice and, receiving an affirmative reply, he consulted with the licensee, after which he informed them that (the licensee) "Phyllis said it is OK." Fred then told the agents that Alice would charge \$5 and suggested that they "take her down to the next corner, make a right-hand turn and park under the trees. It is dar there." The licensee then asked Fred to introduce Alice to the agents, saying "Fred, don't forget, tell them one at a time." Alice joined the agents at the bar and Fred instructed her to take good care of them. At this point one of the agents left the premises, contacted the local police and acquainted them with the type of investigation being

conducted. Shortly thereafter the other agent and Alice left the premises and proceeded in the agent's car to the place suggested by Fred, where Alice accepted a marked \$5 bill. The agents who had contacted the police appeared upon the scene with a police officer and, after identifying themselves, asked for and obtained from Alice the marked money. All four returned to the licensed premises and informed Fred and the licensee of the violation. The licensee denied knowledge of Alice's activities but Fred and Alice volunteered signed, sworn statements which establish that the licensee not only sanctioned the aforesaid indiscretions but approved or disapproved of the males with whom Alice carried on her sordid practices.

The privilege of selling alcoholic beverages at retail to the public -- one granted to the few and denied to the many (Paul v. Gloucester, 50 N.J.L. 585) -- must be exercised in the public interest. There can be no question that the practices herein disclosed must not be permitted to exist on licensed premises. Re Sengebush, Bulletin 311, Item 8, and cases cited therein. The operator of a liquor licensed business is charged with the responsibility of operating the business in a proper manner, and the licensee's interest -- financial or otherwise -- cannot prevail over public interest. Grant Lunch Corp. v. Driscoll, 130 N.J.L. 554. It is obvious from the facts disclosed herein that this defendant has not only shown a callous disregard for both State and local regulations but has demonstrated a shocking lack of appreciation for and understanding of fundamental decencies and proprieties in the operation of her licensed business.

Defendant has a prior adjudicated record. Effective April 1, 1957, I suspended her license for thirty days for (a) possession of indecent matter, (b) allowing hostess activity on licensed premises, and (c) sale to an intoxicated person. Re Minchin, Bulletin 1165, Item 1.

Considering all the facts and circumstances herein, I shall suspend defendant's license for the balance of its term, with the proviso that she consent to the transfer of the license to a bona fide purchaser sufficiently in advance of the expiration date of the license to enable the local issuing authority to consider an application for transfer before the license expires on June 30, 1959. If the license is thus transferred, the transferee will take the license subject to the suspension imposed herein. Cf. Re Rosano, Bulletin 1212, Item 1.

Accordingly, it is, on this 29th day of December, 1958,

ORDERED that plenary retail consumption license C-11, issued by the Mayor and Council of the City of Garfield to Phyllis Minchin, t/a 31 Club, for premises 31 Belmont Avenue, Garfield, be and the same is hereby suspended for the balance of its term, effective at 4 a.m. Monday, January 5, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - NUISANCE (FEMALE IMPERSONATORS AND OBSCENE LANGUAGE) - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary
Proceedings against

801 HAMPSHIRE CORP.
t/a TOPSY'S HIDEAWAY
801 N. New Hampshire Avenue
Atlantic City, New Jersey

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-164, issued by the Board
of Commissioners of the City of
Atlantic City.

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

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On August 22, 23, 30 and 31, 1958, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you employed on your licensed premises and allowed, permitted and suffered thereon persons, males impersonating females and females impersonating males, who appeared to be homosexuals; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.

"2. On August 23, 30 and 31, 1958, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises in that you allowed, permitted and suffered persons employed on your licensed premises as entertainers to perform in a lewd, indecent and immoral manner, sign songs, utter words and phrases and make gestures and movements having lewd, lascivious, indecent, filthy, disgusting and suggestive import and meaning; in violation of Rule 5 of State Regulation No. 20.

"3. On August 30 and 31, 1958, you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20."

Late in the evening of August 22 and the early morning hours of August 23, 1958, ABC agents at defendant's licensed premises observed that many of its employees appeared by their attire, demeanor and actions to be homosexuals. Seven of such persons were females, four employed as bartenders, one as the headwaitress and two as waitresses. Three of such persons were males who acted as waiters. Another such male acted as master of ceremonies and sang. Three persons of this character, two females and one male, were there as patrons. A female entertainer told double entendre stories and

engaged in indecent language and a song of sexual import, and performed a "bumps and grind" and otherwise objectionable dance.

In the late evening hours of August 30 and early morning hours of August 31, 1958, ABC agents were again in defendant's licensed premises. On this occasion there were three female bartenders, one female head waitress, one female waitress and four male waiters, some of whom had been so employed on the last visit of the agents and all of whom were apparently homosexuals. One of these waiters, when conversing with the agents, used indecent language. Three males of this character entertained by singing. The female singer seen there on the previous visit of the agents told stories, sang and danced in a performance similar to that observed on the first visit.

Rose D'Amato, president of the corporate licensee, wearing a man's sport shirt and close-cropped hair, was also on duty behind the bar. The agents identified themselves to Rose D'Amato and called her attention to what they observed, whereupon she said, "They are queer, but they don't bother anyone or carry on. I won't allow it."

In sum, the licensee's agents did not merely tolerate the presence of sexual deviates or merely permit its licensed premises to become a haven for such persons, but actually publicized, by employing apparent homosexuals almost exclusively, that it was a place where patrons could witness sexual depravity and, as a concomitant thereof, unseemly and degrading entertainment.

As I said in Re Polka Club, Inc., Bulletin 1045, Item 6:

"Rigid enforcement of the regulations, the violation of which forms the basis of the charges herein, is essential to the preservation of decency and the protection of the public morals which demand a severe penalty in this case ...

"...degradation and depravity, which constitute so serious a threat to the public welfare and morals, will not be tolerated upon licensed premises..."

Since defendant has no previous adjudicated record, I shall not revoke its license, but instead, shall suspend it for the balance of its term. Re Polka Club, Inc., supra. It is apparent that if defendant desires a renewal of its license it will have to change drastically its manner of operating the premises.

Accordingly, it is, on this 29th day of December 1958,

ORDERED that Plenary Retail Consumption License C-164, issued by the Board of Commissioners of the City of Atlantic City to 801 Hampshire Corpl, t/a Topsy's Hideaway, for premises 801 N. New Hampshire Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, effective at 7:00 A.M., Monday, January 5, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - NUISANCE (FEMALE IMPERSONATORS AND OBSCENE LANGUAGE) - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary)
 Proceedings against)

JOCKEY CLUB, INC.)
 t/a JOCKEY CLUB)
 5-7-7 1/2-9 S. North Carolina Ave.)
 Atlantic City, N. J.)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption)
 License C-212, issued by the Board)
 of Commissioners of the City of)
 Atlantic City.)

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

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On August 16, 17, 23, 30 and 31, 1958, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you employed on your licensed premises and allowed, permitted and suffered thereon persons, males impersonating females and females impersonating males, who appeared to be homosexuals; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.

"2. On August 16, 17, 30 and 31, 1958, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises in that you allowed, permitted and suffered persons employed on your licensed premises as entertainers to perform in a lewd, indecent and immoral manner, sing songs, utter words and phrases and make gestures and movements having lewd, lascivious, indecent, filthy, disgusting and suggestive import and meaning; in violation of Rule 5 of State Regulation No. 20.

"3. On August 23, 1958, you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20."

On Saturday night, August 16, 1958 at about 10:15 p.m., ABC agents at defendant's licensed premises observed four female bartenders who, by their attire, demeanor and actions, appeared to be homosexuals. At about 11:45 p.m. the agents entered the rear room to observe entertainment which was about to commence. In this room there were four male waiters, a male head waiter and four female waitresses who appeared to be homosexuals. A three-piece band was on the stage. First to perform was a chorus of six persons all of whom were apparent homosexuals and had been previously observed acting as waiters and waitresses. When they completed their performance they returned to their other duties. A male homosexual then appeared on the stage and

announced that he was the master of ceremonies. He introduced a female vocalist who sang double entendre songs and told off-color stories. Other entertainment was presented which was unobjectionable.

ABC agents were again at the premises on Saturday, August 23, 1958 at about 1:30 a.m. Three female apparent homosexuals were acting as bartenders. A number of the apparent homosexuals who acted as waiters and entertainers were observed in the barroom during the course of the evening. A female and two male apparent homosexuals were in the premises as patrons. One of these lesbian bartenders, in a conversation with the agents, used indecent language and declared that she "picked up" many females while employed there as a bartender.

The last visit of the agents was on Saturday, August 30, 1958 when they entered at about 10:00 p.m. Four female apparent homosexuals were tending bar. Two female and three male patrons appeared to be homosexuals. The lesbian bartender with whom the agents had a conversation on August 23d again spoke with them and used some indecent language in the course of her conversation. One of the homosexual entertainers previously observed there came to the bar. At about 10:50 p.m. the agents entered the room where entertainment was being presented. A male comedian was relating lewd and double entendre stories. The master of ceremonies previously referred to appeared on the stage and introduced a homosexual trumpet player. The chorus of six, comprised of homosexual waiters and waitresses, then entertained. Five other homosexual waiters and waitresses were on duty.

The instant case is almost identical with a contemporaneous case. See Re 801 Hampshire Corp., Bulletin 1259, Item 4. Here, as there, the licensee did not merely tolerate the presence of sexual deviates or merely permit its licensed premises to become a haven for such persons, but actually publicized, by employing apparent homosexuals almost exclusively, that it was a place where patrons could witness sexual depravity and, as a concomitant thereof, unseemly and degrading entertainment.

To repeat the reasons why such misconduct is considered of a most aggravated nature.

"Rigid enforcement of the regulations, the violation of which forms the basis of the charges herein, is essential to the preservation of decency and the protection of the public morals which demand a severe penalty in this case...

"...degradation and depravity, which constitute so serious a threat to the public welfare and morals, will not be tolerated upon licensed premises..."

Re Polka Club, Inc., Bulletin 1045, Item 6.

Since defendant has no previous adjudicated record, I shall not revoke its license, but instead, shall suspend it for the balance of its term. Re Polka Club, Inc., supra. It is apparent that if defendant desires a renewal of its license it will have to change drastically its manner of operating the premises.

Accordingly, it is, on this 29th day of December 1958,

ORDERED that Plenary Retail Consumption License C-212, issued by the Board of Commissioners of the City of Atlantic City to Jockey Club, Inc., t/a Jockey Club, for premises 5-7-7 1/2-9 S. North Carolina Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, effective at 7:00 a.m., Monday, January 5, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary
Proceedings against

MATTHEW E. STANZIALE & PROSPER
G. STANZIALE
t/a STITS' COCKTAIL LOUNGE
4-6 Taylor Street
Millburn, New Jersey

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption
License C-7, issued by the Township
Committee of the Township of Millburn.

Charles A. Stanziale, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to the following charge:

"On July 26, August 5 and 7, 1958, you allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets, in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20."

The matter came on for hearing on October 22, 1958 and at the conclusion of the direct testimony of the first witness for the Division, the attorney for the licensees, after conferring with his clients, entered a plea of non vult to the charge and submitted the case on the evidence secured by the ABC agents.

It appears from the file herein that two ABC agents were at the defendants' licensed premises on the dates set forth in the charge. On the first occasion, after observing a male patron taking what appeared to be horse race bets, one of the agents placed a horse race bet with this patron. On their second visit the agents observed similar horse race betting activity on the part of such patron and one of the agents placed a horse race bet with him. On this occasion the agent told the bartender that he had placed such a bet with the bookmaker to which the bartender replied, "I make believe I don't see". On their last visit the two agents again observed the bookmaker engaging in horse race betting activity, and the agent who had placed the bets on the previous occasions placed a bet of \$8.00 with this bookmaker using bills identified by serial number.

Shortly after placing such bet, another agent and local police officers entered by previous arrangement, disclosed their identity and recovered the marked money from the bookmaker.

The defendants have no prior adjudicated record. Counsel for the defendants has submitted a statement of alleged mitigating circumstances centering on the representation that the licensees bear a good reputation. Even if such is the fact, it presents no reason for the imposition of less than the established penalty in a case of this nature. Since there is no evidence any agent or employee of defendants' actively participated in the gambling

activities, I shall suspend their license for twenty days, the minimum suspension imposed for such a violation. Re Verona Inn, Inc., Bulletin 1224, Item 2.

Accordingly, it is, on this 22nd day of December 1958,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Millburn to Matthew E. Stanziale & Prosper G. Stanziale, t/a Stits' Cocktail Lounge, for premises 4-6 Taylor Street, Millburn, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m., Tuesday, January 6, 1959 and terminating at 2:00 a.m. Monday, January 26, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - OBSCENE LANGUAGE - SALE TO INTOXICATED PERSON - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

FRANCIS X. SPILLANE)
401 - 35th Street)
Union City, New Jersey)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-44, issued by the Board of)
Commissioners of the City of Union)
City.)

Defendant-licensee, Pro se.

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

BY THE DIRECTOR:

Defendant pleaded guilty to the following charges:

"1. On September 13, 14 and 21, 1958, you allowed, permitted and suffered foul, filthy and obscene language and conduct in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20.

"2. On September 21, 1958, you allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person actually or apparently intoxicated and allowed, permitted and suffered the consumption of such beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

On September 13, 14 and 21, 1958, ABC agents were in defendant's licensed premises and while there the defendant and other persons continuously used foul, filthy and indecent language. On September 21st the agents observed a male patron, who appeared to be intoxicated, fall to the floor. The bartender helped the patron to his feet and then served him a drink of alcoholic beverages.

Defendant has no prior adjudicated record. The minimum suspension for the violation set forth in Charge 1 is ten days (Re Caridi's Bar, Inc., Bulletin 1185, Item 3), and for Charge 2 fifteen days (Re Madeira, Bulletin 1199, Item 2), making a total suspension of twenty-five days.

Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 22nd day of December 1958,

ORDERED that Plenary Retail Consumption License C-44, issued by the Board of Commissioners of the City of Union City to Francis X. Spillane, for premises 401 - 35th Street, Union City, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m., Tuesday, January 6, 1959, and terminating at 3:00 a.m., Monday, January 26, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CHARLES SCHRICK)
t/a SCHRICK'S)
527 Belmont Avenue)
Haledon, New Jersey)

CONCLUSIONS
AND ORDER

Holder of Limited Retail Distribution License DL-1 (for the 1957-58 and 1958-59 licensing years), issued by the Mayor and Council of the Borough of Haledon.)

Louis Santorf, 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 charges alleging that (1) he accepted bets on horse races and lotteries in and upon his licensed premises, in violation of Rule 7 of State Regulation No. 20, and (2) he possessed, had custody of and permitted participation rights in lotteries in and upon his licensed premises, in violation of Rule 6 of State Regulation No. 20.

This matter was brought to the attention of this Division in May 1958. It appears that on October 25, 1957 a state trooper accompanied by local and county police officers, raided defendant's grocery store for which he holds a limited retail distribution license and therein found in a freezer a cigar box containing nine horse race bets and \$37.00 in cash. In a rear room they found other gambling paraphernalia and upon the person of a man (whom they apprehended in the store) they found an envelope containing a horse race bet and \$4.00. Searching defendant's living quarters above the store, which are not part of the licensed premises, the officers found a quantity of sweepstake tickets and cash. Thereafter they obtained a signed, sworn statement from the licensee in which he states that for about a year he has been accepting bets for an undisclosed bookmaker who picks them up each day and pays him a 10% commission on the non-winner bets. He states further that the sweepstake tickets were received through the mail on the date alleged and that for about five or six years he has sold similar tickets to customers who asked for them, for which he received no monetary benefit. The man who was apprehended volunteered a signed statement

in which he states that it was the first time that he had entered the licensed premises for the purpose of placing a bet with the defendant.

Defendant has no prior adjudicated record. I shall suspend his license for the minimum period of twenty-five days. Re Nasco, Bulletin 1227, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 22nd day of December 1958,

ORDERED that Limited Retail Distribution License DL-1 issued by the Mayor and Council of the Borough of Haledon to Charles Schrick, t/a Schrick's, for premises 527 Belmont Avenue, Haledon, be and the same is hereby suspended for twenty (20) days, commencing at 9:00 a.m., Tuesday, January 6, 1959 and terminating at 9:00 a.m., Monday, January 26, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - GAMBLING - PRIOR RECORD - LICENSE
SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JOSEPH GUARINO)
t/a THE OLD MILL TAVERN)
93 - 7th Avenue)
Newark 4, New Jersey)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-391, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Newark.)

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

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On September 26 and 30, 1958, you allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets, in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20."

On September 26 and 30, 1958, an ABC agent, while on the premises of defendant, placed bets with John Zoppi (who was acting as bartender) on horses which were scheduled to run at Atlantic City and Belmont tracks, respectively. On each occasion the bartender gave the bets to a man who came into the premises. When on the latter date the person to whom the bartender had given the bet left the premises, he was followed by two ABC agents and two police detectives who eventually caught up with him and all returned to the defendant's licensed premises. The agents and detectives made known their identities and advised the defendant of the violation. Defendant refused to give a written statement.

Defendant has a prior adjudicated record. Effective November

14, 1955, his license was suspended by the local issuing authority for twenty-five days, for sale of alcoholic beverages to minors. The minimum suspension for a violation such as that now under consideration is twenty-five days. Re Jassogne & Houckes, Bulletin 1226, Item 5. In view of defendant's dissimilar record occurring within the past five years, I shall suspend defendant's license for thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 23rd day of December 1958,

ORDERED that plenary retail consumption license C-391, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Joseph Guarino, t/a The Old Mill Tavern, for premises 93 - 7th Avenue, Newark, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, January 5, 1959 and terminating at 2 a.m. Friday, January 30, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF REGULATION NO. 38 - UNQUALIFIED EMPLOYEE - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

GEORGE HAHNER
t/a GEORGE'S TAVERN
8a Rose Avenue
Jersey City, New Jersey

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-69, issued by the Municipal
Board of Alcoholic Beverage Control
of the City of Jersey City.

George Hahner, Defendant-licensee, Pro se.
Dora P. Rothschild, Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that (1) he sold during prohibited hours alcoholic beverages in their original containers for off-premises consumption; in violation of Rule 1 of State Regulation No. 38 and (2) he employed on his licensed premises a bartender who had not been issued an identification card; in violation of a local ordinance.

The facts are that at 1:55 p.m., Sunday, November 9, 1958, two ABC agents who were in defendant's licensed premises observed the bartender therein sell three quarts of beer and a pint of whiskey to a patron who, complying with instructions, took the package out the back way. At 2:05 p.m. they observed another patron who purchased four quarts of beer and followed the same instructions. One of the agents then left the premises. At 2:10 p.m. the agent who remained purchased from the same bartender a pint of whiskey which he pocketed and left. Contacting the other ABC agent, both re-entered the licensed premises and identified themselves to the bartender who admitted the sale during prohibited hours and the fact that he was not issued an identification card as required by a local ordinance.

Defendant has no prior adjudicated record. I shall suspend his license for a period of twenty days. Re Missiris, Bulletin 1240, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 23rd day of December 1958,

ORDERED that Plenary Retail Consumption License C-69, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to George Hahner, t/a George's Tavern, for premises 8a Rose Avenue, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m., Monday, January 5, 1959, and terminating at 2:00 a.m., Tuesday, January 20, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

11. STATE LICENSES - NEW APPLICATION FILED.

Famous Brands, Inc.
140 8th Street & 139 Pavonia Avenue &
143-145 Provost Street
Jersey City, New Jersey

Application filed January 21, 1959 for additional warehouse and salesroom at 1465 Palisade Avenue, Teaneck, New Jersey on State Beverage Distributor's License SBD-150.


William Howe Davis
Director