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

BULLETIN 1672 May 11, 1966

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ITEM

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

BULLETIN 1672 May 11, 1966

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (INDECENT ENTERTAINMENT) - LICENSE SUSPENDED FOR 45 DAYS.

In the Matter of Disciplinary Proceedings against Veterans of Foreign Wars Post 1953 cor. of Ramsey Avenue & Francis Pl., Keansburg, New Jersey, Holder of Club License CB-2, issued by the Municipal Council of the Borough of Keansburg.	CONCLUSIONS and ORDER

George Eliot Ostrov, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"On Saturday night November 6, 1965, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy, and obscene conduct in and upon your licensed premises, viz., in that you allowed, permitted and suffered a female to perform on your licensed premises for the entertainment of persons thereon in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulation No. 20."

Laural Social & Athletic Club (hereinafter Laural) applied to this Division and received a special permit to sell alcoholic beverages on November 6, 1965, at a social affair (a dance) to be held at the premises of Veterans of Foreign Wars Post 1953, the holder of a club license issued by the municipality wherein the premises are located.

Laural (also known as Laurel) distributed tickets for the dance to be held on November 6, 1965. In addition to other pertinent information concerning the affair, the tickets bore the legend "Special Added Attraction - Exotic Dancer."

In behalf of the Division Agent S testified that, pursuant to specific assignment to investigate an allegation that a strip tease show was going to be held, he and Agent B entered the VFW premises (the licensee herein) on November 6, 1965 at approximately 11 p.m. Upon entry they approached a table where two men were seated and purchased tickets which admitted them into the main ballroom, described as "perhaps a hundred by a hundred. It's almost a square room, a big large room. It had

tables and chairs all about and in the center of this room there was a large dance floor." There were from three hundred to five hundred patrons in attendance, both male and female. The agents took a standing position to the rear of the tables and had a clear view of the dance floor area. A five-piece band was playing on a raised stage at the rear.

Upon introduction a female dancer went to the dance floor dressed in a "form-fitting blouse and pants, cowboy hat and bullwhip and high-heel shoes." For about a moment or two she pranced about the dance floor performing some "bumps" and "grinds". She then, in a slow and hesitating manner took off her blouse, revealing a bra, and pranced around the floor still doing some bumps and grinds. She went to a male patron, tucked a napkin in his shirt under his chin and shook her breasts inches away from his face. The audience responded by clapping, shouting and whistling.

In succession she removed her bra, rolled down her gloves slowly and removed them, doing more bumps and grinds, all of this being accompanied by cheering and shouting from the audience. With the upper part of her body covered solely by pasties, she unzippered the legs of her pants and removed her pants, leaving the lower part of her body covered by a transparent lace G-string panties and stockings. The audience reaction was progressively getting louder. She flipped the backs of her stockings down, thus exposing her buttocks. After some more dancing she sat on a chair near the rear center of the floor and beckoned to a male in the audience. She had him kneel in front of her between her legs and then she hugged him. Placing one leg and then the other upon his shoulder, she had him remove her stockings. After the male patron returned to his table, she performed more bumps and grinds in her scanty attire.

It was stipulated by counsel that the testimony of Agent B (who had accompanied Agent S in this investigation) would be the same as that given by Agent S on direct examination.

On behalf of the licensee, Robert Giebler testified that he is the president of Laural and he was in charge of making arrangements with the licensee for the use of its hall. The dancer was hired through an agent. He did not recall being contacted by any members of the VFW regarding posters advertising the social which bore the legend "Exotic Dancer." He did not see or speak to the dancer until a few moments prior to the performance.

Charles Fazio testified that he holds the office of Commander of the VFW Post and the request of Laural to use the VFW hall for its dance was brought to the attention of the membership on two occasions. On the first occasion the matter of the request for the use of the hall was discussed. On the second occasion Fazio questioned the meaning of the words "Exotic Dancer" which appeared in the posters. He was assured by the house chairman that the terminology did not indicate that a lewd or immoral performance would take place.

On cross examination the witness stated that the word on the signs "exotic" had a questionable meaning to him. The licensee delegated a member to represent it and protect its interests on the night of the dance.

Edwin S. Stark testified that he was the Judge Advocate of the licensee organization. Laural, upon questioning by the

house committee membership of the VFW, gave its assurance that there would be no stripper performing, and that the dance would not be lewd. Additionally he testified that Laural had obtained special permits and used the VFW hall on prior occasions.

On cross examination the witness admitted that precautionary measures were taken because the word "exotic" may be connected with a stripper.

I have carefully reviewed and considered the testimony presented herein, and I am definitely persuaded that the Division agents have given a credible and forthright description of what transpired on the date alleged in the charge. Indeed, the gravamen of the charge, that is, that the lewd and indecent performance took place in the licensed premises, was admitted by the licensee's counsel who, with commendable frankness in his brief, stated:

> "*** Quite sometime was spent by counsel going into the type and mode of dance and I must agree with the charges that the dance which was at its inception innocuous reached the point of lewdness and indecency. This however occurred during the latter part of the dance and took up perhaps a minute or two of time at the completion of the so-called entertainment. I am shocked by the entertainment as are my clients, the V.F.W. Although we have all had occasion to view similar dances encompassing various degrees of sensuality on television, there is no question that this performance violated the narrower basis imposed by the cases in alcoholic beverage matters."

The main trust of the licensee's defense was directed to the arguments that Laural (the permittee) received its special permit to hold the social on licensee's premises from the Division after receiving approval from the local authorities (including the Chief of Police) and that the Division, having received some information indicating that a lewd performance was to take place at the licensed premises, failed to notify the licensee of the proposed lewd or immoral performance and, further, that the licensee had no knowledge that a lewd and indecent performance was to take place and did not suffer the holding of such performance.

The argument that an administrative body (the Division) is under a duty to notify a licensee that an infraction of its regulations and rules is about to, or may, take place is clearly frivolous and without basis in law.

This case clearly falls within the ambit of Greenbrier, Inc. v. Hock, 14 N. J. Super. 39 (App.Div. 1951). In the Greenbrier case an individual named William Berry, who was given a key to the licensed premises by the president of the licensee corporation in order to paint the interior and do some plumbing repairs, engaged in lewd and immoral activities. In following the ruling in the case of Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup.Ct. 1947), the court stated at p. 43:

> "'Although the word "suffer" may require a different interpretation in the case of a trespasser, it 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.' Guastamachio v. Brennan, 128 Conn. 356; 23 Atl. Rep. (2d) 140 (Sup.Ct. of Err.,

Conn., 1941).' We think that 'trespasser' as used in the Essex Holding Corp. case was intended to refer to one who enters the premises without any privilege to enter, either general, conditional or restricted. William Berry was not such a trespasser; he had a privilege to enter. The licensee gave him the means of access and authority to occupy the premises. When a privilege to enter is given, whether general, conditional or restricted, the licensee has the duty of taking such measures as the circumstances of the particular case require to prevent prohibited conduct on the licensed premises arising out of the grant of the privilege. This licensee cannot avoid this duty on the technical argument that William Berry was a trespasser on the particular occasion because he entered the premises for a purpose other than the authorized purpose. Cf. Restatement, Torts, § 168. As was aptly said in Hudson Bergen, etc., Ass'n v. Hoboken, 135 N.J.L. 502, 507 (E. & A. 1947):

> 'The reason and the need for singling out the liquor traffic for peculiar limitation and strict supervision may be read in our statutes from early colonial times. ***Thus, through nearly 250 years the legislature has struggled with the conditions arising out of the sale of liquor. The current statute is to be construed in the light of the long series of statutes of which it is the culmination and of the decisions of the courts regarding those statutes. Meticulous technicalities should not be permitted to thwart so considerable an effort toward keeping a public convenience from becoming a social evil. The state authorities should be given every reasonable apportunity to work out the mandate of the legislature.'"

The instant case also falls within the holding of Re 500 Cafe, Inc., Bulletin 1584, Item 2, which sets forth the responsibility of a licensee who permits the use of the licensed premises by another organization.

Accordingly, I am persuaded by the clear and convincing proof in this case that the charge has been sustained by a fair preponderance of the credible evidence. I therefore recommend that the licensee be found guilty of the charge and that, in view of the aggravated nature of the violation, involving as it did audience participation, an order be entered herein suspending the license for forty-five days. Re Jockey Club, Inc., Bulletin 1488, Item 1; Re Talvacchia, Bulletin 1594, Item 1.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 22d day of March, 1966,

ORDERED that Club License CB-2, issued by the Municipal Council of the Borough of Keansburg to Veterans of Foreign Wars

Post 1953 for premises corner of Ramsey Avenue and Francis Place, Keansburg, be and the same is hereby suspended for forty-five (45) days, commencing*at 2:00 a.m. Tuesday, March 29, 1966, and terminating at 2:00 a.m. Friday, May 13, 1966.

JOSEPH P. LORDI,
DIRECTOR

*By order dated April 5, 1966, the suspension was reimposed to commence at 2:00 a.m. Tuesday, March 29, 1966 and terminating at 2:00 a.m. Saturday, April 30, 1966, and again commencing at 2:00 a.m. Sunday, May 1, 1966 and terminating at 2:00 a.m. Saturday, May 14, 1966.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (INDECENT ENTERTAINMENT) - SPECIAL PERMIT REVOKED.

In the Matter of Disciplinary Proceedings against	)
Laural Social & Athletic Club c/o Charles Banzaca 20 Lincoln Court Keansburg, N. J.	) CONCLUSIONS and ORDER
Holder of Special Permit S-16397, issued by the Director of the Division of Alcoholic Beverage Control	)

Permittee, by Robert Giebler, President, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Permittee pleads guilty to a charge as follows:

"On Saturday night November 6, 1965, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene conduct in and upon premises known and designated as the club quarters of the Veterans of Foreign Wars, Post 1953, cor. Ramsey Avenue and Francis Place, Keansburg, New Jersey, for which premises you were issued Special Permit S-16,397 by the Director of the Division of Alcoholic Beverage Control authorizing you to sell drinks of alcoholic beverages on these premises on that night to persons attending a social affair then and there being conducted by you, viz., in that you allowed, permitted and suffered a female to perform on said premises for the entertainment of persons attending the aforesaid social affair in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulation No. 20."

The facts with respect to the indecent entertainment are set forth in Re Veterans of Foreign Wars Post 1953, Bulletin 1672 Item 1, decided herewith.

The facts and circumstances considered, the permit will be revoked notwithstanding its expiration. State Regulation No. 16 Rule 1. Consequently, the permittee will be ineligible to obtain or hold any similar special permit for a period of two years from the date of the revocation. Cf. R.S. 33:1-31.

Accordingly, it is, on this 22d day of March, 1966,

ORDERED that Special Permit S-16397, issued by the Director of the Division of Alcoholic Beverage Control to Laural Social & Athletic Club, c/o Charles Banzaca, 20 Lincoln Court, Keansburg, N.J., be and the same is hereby revoked effective this date.

JOSEPH P. LORDI,
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (INDECENT ENTERTAINMENT) - LICENSE SUSPENDED FOR 45 DAYS.

In the Matter of Disciplinary Proceedings against

Julian Kopinski & Stella Kopinski
t/a Longwood Casino
Berkshire Valley Road
Jefferson Township
PO Oak Ridge, N. J.

Holders of Plenary Retail Consumption License C-12, issued by the Township Committee of the Township of Jefferson.

CONCLUSIONS and ORDER

McGovern & Roseman, Esqs., by William J. McGovern, Esq., Attorneys for Licensees
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensees pleaded not guilty to the following charge:

"During the early morning hours of Sunday, November 21, 1965, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene conduct in and upon your licensed premises, viz., in that you allowed, permitted and suffered a female person to perform on your licensed premises for the entertainment of your customers and patrons in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulation No. 20."

Two ABC agents participated in an investigation of the subject licensed premises pursuant to a specific assignment to investigate alleged lewd and indecent performances thereat.

On Saturday, November 20, 1965, at approximately 11:05 p.m., ABC agents D and M, pursuant to their assignment as aforesaid, entered the above licensed premises and seated themselves at the far rear side of the bar near the open entranceway leading to the dining and dancing area. There were three bartenders on duty; one waiter and four waitresses in the premises were serving ap-

proximately one hundred twenty-five to one hundred seventy-five patrons.

At about 12:45 a.m. on Sunday, November 21, 1965, Stella Kopinski (licensee) announced over the microphone, "And now, Nazette, the girl you've all been waiting for" was about to perform. The agents gave the following narrative of what transpired: Nazette came out on the dance floor attired in an outfit consisting of gold-beaded bra, transparent veil about her sholders, beaded and fringed belly-band, two-paneled orange skirt and gold shoes. For the first few minutes she danced an exotic dance punctuated with some bumps and grinds; she included some of the males seated in the audience in this part of her dancing routine. At first she approached a seated male patron, put her veil over his head and continued her bumping and grinding routine in a position very close to this patron. The audience reacted by applauding her act. She then removed her veil from this patron, danced toward a second male patron who had his legs parted and, standing between his legs, she made bumping motions toward his private parts. She then approached a third man and, standing close to him, shook her breasts in his face. At this point the audience applauded and cheered more enthusiastically. She then returned to the stage and asked for a male volunteer. When no one volunteered, she grabbed a male patron by the hand and pulled him on to the dance floor, ascertained his name was George, and asked, "Do you think you'll qualify?" Thereupon she stepped back, parted the bottom portion of her skirt, gazed at the lower portion of his body, and said, "You'll qualify. I can see you'll do." She then placed a red pillow in the center of the dance floor and had George sit on it. She then wrapped her shoulder veil around George's head in the manner of a turban, at the same time doing bumps and grinds toward George's face, so closely that George's nose touched her private parts. At this point, George, obviously aroused, sought to grab her, but she stepped back and countered with an admonishing finger, "As the old proverb goes, lookie but no touchie unless you can kiss it." The audience reaction at this point consisted of loud cheering, laughter and whistling. She continued to dance around George, doing bumps and grinds, sometimes within inches of his face, to the lusty cheers of the customers. She then straddled his right shoulder with her legs parted, rubbing her private parts back and forth with her stomach touching the side of George's head. She then reversed the position and repeated the same routine. She danced around George, doing bumps and grinds, sometimes coming within inches of his face; and the patrons cheered. On one occasion George tried to kiss Nazette's belly but she stopped him with her hands. She now took a standing position in front of George and began to shimmy, simultaneously moving closer to George until her private parts were touching his nose. She threw a panel of her skirt over his head and, when George turned his head away, she rubbed her buttocks against his ear. After several minutes of this, Nazette took a kneeling position on George's right side, spread her legs and bumped her private part toward his body, slowly bending over backwards until her head reached the floor, during all of which time she continued to bump and grind. This same type of activity was repeated on George's other side, and she stopped George when, in an apparent sexual response, he attempted to climb on her. Nazette then stood up and, to the cheers of the audience, grabbed George's head, placed it on her breast and kissed his head, after which he also stood up Nazette was holding George around the waist, grinding her body into his while he reciprocated in like fashion. She kissed George again, placing his head into her breast, whereupon she left the dance floor.

During the preponderance of this performance the agents noted that Mrs. Stella Kopinski (the co-licensee) was seated on the stage. At the conclusion of this performance Mrs. Kopinski

asked the audience to give a round of applause for the performance. They also noted that Kopinski frequently observed the performance from the cash register where he was stationed.

At this point the agents identified themselves to Julian Kopinski at the cash register and, in the presence of both licensees, informed them that they had just permitted a lewd and indecent performance to take place on the premises. Mrs. Kopinski declared that they could not stop the floor show once it had begun and claimed that other taverns in the area had similar shows. However, she agreed that Nazette's actions were very suggestive.

Stella Kopinski (co-licensee), testifying in her own behalf, denied that she had permitted a lewd and indecent performance or that Nazette's performance was, indeed, lewd or indecent. She gave the following version: She had been a licensee, with her husband, since 1962 at the above premises and engaged entertainment for her Saturday night patrons. Since July 1964, when she first engaged belly dancers, she had this type of dancing on a number of occasions. She also added that she called the Division office and inquired as to the propriety of engaging this type of dancer. She stated that somebody at this office told her it was permissible provided it was a moral dance.

Mrs. Kopinski insisted that the dance performed by Nazette was no different from belly dances performed by other dancers on these premises on prior occasions, in other places throughout the country, and "in two other countries that I was during my travel in my life." She denied that Nazette performed anything but a normal type of exotic dance or that she ever had any physical contact with George, the male patron. She further specifically denied that there were any bumps and grinds, or that Nazette's movements at any time simulated sexual intercourse. Further, she insisted that George found the whole performance amusing rather than sexually stimulating, and he never came closer than one foot away from her body. She added that this was a slave dance presumably performed by a slave girl in the presence of a sultan, and all of the movements of Nazette's body were circular from side to side rather than up and down (as bumps and grinds). She explained also that, within a few minutes after the performance started, she went over to her husband ans asked him whether he thought there was anything "wrong". She added that this was a usual practice of conferring with each other whenever entertainers perform on these premises. However, she admitted that she never conferred with her husband after this initial conversation with respect to the propriety of the said performance, particularly when the dance included the male patron. Further, she asserted to Agent D at the time of confrontation that "I have been in them places and the acts that are conducted over there are much worser taste than I have ever seen." In other words, she felt that the performance given on this occasion was merely a belly dance no different from what other belly dancers perform in other places.

Fred Yelland, testifying on behalf of the licensees, gave the following version: He was present on the evening in question and observed this dance. It was his impression that this dance was a belly dance, was in the "best of good humor" and, when the dancer patted the bald head of one of the patrons, everyone laughed.. He described the dance as being an old dance legitimately performed. "There were no direct bumps. If you would condemn it, you would turn Hullabaloo off or any other show you see on television, and so-called acceptable performances." On cross examination he added that, during part of her dance, he saw

her twirling around and performing some acrobatics and splits. This witness finally added that he had just been informed on the night prior to the continued hearing herein that the licensees had been charged with this violation, and that he volunteered to testify.

Julian Kopinski (co-licensee) testified that he was in charge of the cash register on that evening and didn't pay too much attention to the performance. However, he did watch some of the performance although his attention was distracted at one point because of an argument which occurred between two men. At the beginning of the performance his wife came over to him and questioned him about the performance and he said, "everything is all right so far." He specifically denied that any part of the performance that he saw was lewd or indecent or that there was any physical contact between Nazette and George during the performance. On cross examination he stated that he did not see Nazette do any tumbling or splits or calisthenics; that, after he calmed the patrons who were involved in the argument, he resumed his position and centered most of his attention on the barroom.

Agent D, recalled for rebuttal, refuted the testimony of Yelland and insisted that this performance did not involve any acrobatics or tumbling. Finally he reiterated that, except for the first few minutes of Nazette's performance, which may have been characterized as an oriental-type dance, the preponderance of her dance was lewd and was not a belly dance or slave dance or any other oriental-type dance.

Mrs. Stella Kopinski was recalled and contradicted Mr. Yelland's testimony with respect to Nazette's dance. It was her feeling that the dance did not contain any gymnastics but was, in her opinion, a modern dance.

I have carefully analyzed and evaluated the testimony given at the unnecessarily drawn-out hearings, and have had good opportunity to observe the demeanor of the witnesses as they testified herein. I am persuaded that the narrative of the agents is a forthright and credible one; that, in contrast, the defense offered by the licensees is incredible and unbelievable. In addition, I am singularly unimpressed with the testimony of Mrs. Kopinski who sought to convey the impression that Nazette's performance was not intended to have any sexual significance but was merely presented as a humorous performance. She stated that she did not see any bumps or grinds or any lewd movements. She further specifically denied that there was any physical character or any actions by Nazette which simulated sexual intercourse. Lastly, she stated that she has seen many belly dancers in this country and in other countries, and it was her feeling that the performance of Nazette was no more lewd or indecent or improper than the performances which she had witnessed. This appears to also be the reasoning of Yelland who offered a rather cavalier opinion that the dance performed on this evening was no different from other belly dances that he has seen throughout other areas or on television. He too thought that the whole performance was geared to comedy and he denied that there were any sexual attributes in this performance. Yelland's testimony is particularly suspect and incredible because he contradicted himself in several important instances. For example in his direct testimony he clearly stated that this performer engaged in acrobatics, tumbling and splits, and yet, within a short time after such testimony was given, he was recalled on rebuttal and stated emphatically that he did not so testify. Of course, in the interval he heard the testimony of the licensee Kopinski himself and of the agent, who both testified that there was no such thing as acrobatics, tumbling and splits in the performance discussed herein. One further observation: Common

experience suggests that a belly dancer does not ordinarily gear her performance to humor and laughter. Rather, it is a dance geared to arouse sexual feelings. Thus, when these witnesses seriously suggest that the dance only provoked laughter, little credence can be given to their evaluation and veracity.

Kopinski's testimony was not very helpful because of his limited understanding of the English language. I am convinced that most of his attention was directed to the barroom and the other activities at the premises.

It is significant to note, furthermore, that Mrs. Kopinski consulted with her husband after the first few moments of Nazette's performance with respect to the propriety of the performance, but at no time thereafter did she consult or discuss the matter with him. Her first conversation took place before Nazette performed that part of her routine in which George participated.

I am convinced and find as a fact that Nazette performed her dance in a lewd, immoral and indecent manner and that this dance, particularly with respect to the participation of a male patron, consisted of bumps and grinds and other actions which simulated sexual intercourse. I am further persuaded that this dance was performed for the purpose of arousing and inflaming the sexual passion of the patron.

Mrs. Kopinski's testimony to the effect that she did not see anything lewd, indecent or improper in the performance constitutes no defense. It has been consistently held that licensees or their agents must use their eyes and ears, and use them effectively to prevent improper use of the premises. Re Ehrlich, Bulletin 1441, Item 5; Bilowith v. Passaic, Bulletin 527, Item 3.

Entertainment, if presented upon licensed premises, must be of such character as not to be inimical to the public welfare and morals, or to the best interest of the industry. Re DiAngelo, Bulletin 753, Item 4. With respect to indecent performances in liquor licensed premises, generally the language of Judge Jayne, in McFadden's Lounge v. Division of Alcoholic Beverage Control, 33 N.J. Super. 61 (App. Div. 1954), affirming Re McFadden's Lounge, Inc., Bulletin 1003, Item 5, is particularly appropriate:

> "Experience has firmly established that taverns where wine, men, women, and song centralize should be conducted with circumspect respectability. Such is a reasonable and justifiable demand of our social and moral welfare intelligently to be recongized by our licensed tavern proprietors in the maintenance and continuation of their individualized privilege and concession...."

Continuing, Judge Jayne stated (at p. 68) that:

> "... as my associate Judge Francis defined obscenity in his charge to the jury in State v. Weitershausen (11 N.J. Super. 487), 'offensive to the chastity of the mind, to the delicacy and purity of thought, something suggestive of lustfulness, lasciviousness and sensuality'

> and 'would tend to deprave the morals ... by suggesting lewd thoughts and exciting sensual desires.'"

Cf. In re Olympic, Inc., 49 Super. 299. See also Re Jeanne's Enterprises, Inc., Bulletin 1621, Item 1, affirmed in Jeanne's Enterprises, Inc. v. Division of Alcoholic Beverage Control, (App.Div. 1966), not officially reported, recorded in Bulletin 1665, Item 1.

In reply to the argument that similar performances were observed by the co-licensee and Yelland at other places, the rule laid down in Davis v. New Town Tavern, 37 N.J. Super. 376 (App.Div. 1955) is herein applicable:

> "What is lewdness or immorality for purposes of a rule regulating premises licensed for the sale of alcoholic beverages may be determinable on a distinctly narrower basis than for purposes of regulation of commercial entertainment generally."

Further, as the court said In re Schneider, 12 N.J. Super. 449, at p. 455:

> "The whole machinery of the Alcoholic Beverage Control statute is designed to control and keep within limits a traffic which, unless tightly restrained, tends toward abuse and debasement." Kravis v. Hock, 135 N.J.L. 259 (Sup.Ct. 1947), reversed on other grounds, 136 N.J.L. 161 (E. & A. 1947).
>
> "The liquor business is one that must be carefully supervised and it should be conducted by reputable people in a reputable manner." Zicherman v. Driscoll, 133 N.J.L. 586 (Sup.Ct. 1946).

Accordingly, I conclude that the Division has proved its case by a preponderance of the credible evidence, indeed by substantial evidence. Hornauer v. Division of Alcoholic Beverage Control, 40 N.J. Super. 501; In re Schneider, supra. I therefore recommend that licensees be found guilty of the charge, and that, in view of the aggravated nature of the violation, involving as it did audience participation, an order be entered herein suspending the license for forty-five days. Re Jockey Club, Inc., Bulletin 1488, Item 1; Re Talvacchia, Bulletin 1594, Item 1.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of testimony, the memorandum in summation of counsel for the licensee, and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 22d day of March, 1966,

ORDERED that Plenary Retail Consumption License C-12, issued by the Township Committee of the Township of Jefferson to Julian Kopinski and Stella Kopinski, t/a Longwood Casino, for

premises on Berkshire Valley Road, Jefferson Township, be and the same is hereby suspended for forty-five (45) days, commencing * at 3:00 a.m. Tuesday, March 29, 1966, and terminating at 3:00 a.m. Friday, May 13, 1966.

JOSEPH P. LORDI,
DIRECTOR

* By order dated March 24, 1966, the suspension was reimposed to commence at 3:00 a.m. Monday, March 28, 1966 and terminating at 3:00 a.m. Saturday, May 7, 1966, and again commencing at 3:00 a.m. Sunday, May 8, 1966, and terminating at 3:00 a.m. Friday, May 13, 1966.

4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Nate Kates, Inc. t/a Bobaloo Cafe 178 - 12th Avenue Paterson, N. J. Holder of Plenary Retail Consumption License C-165 issued by the Board of Alcoholic Beverage Control for the City of Paterson	CONCLUSIONS AND ORDER

O'Connor, Morss & O'Connor, Esqs., by Richard R. O'Connor, Esq., Attorneys for Licensee.
Morton B. Zemel, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on February 16, 1966, it permitted removal from its licensed premises of an opened half-pint bottle of liqueur during prohibited hours, in violation of Rule 1 of State Regulation No. 38, and (2) on March 2, 1966, possessed alcoholic beverages in eight 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 on the first charge for fifteen days (Re Hubby's Inn, Inc., Bulletin 1664, Item 9) and on the second charge for thirty days (Re White Triangle, Inc., Bulletin 1601 Item 5), or a total of forty-five days, with remission of five days for the plea entered, leaving a net suspension of forty days.

Accordingly, it is, on this 23d day of March, 1966,

ORDERED that Plenary Retail Consumption License C-165, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Nate Kates, Inc., t/a Bobaloo Cafe, for premises 178 12th Avenue, Paterson, be and the same is hereby suspended for forty (40) days, commencing at 3:00 a.m. Wednesday, March 30, 1966, and terminating at 3:00 a.m. Monday, May 9, 1966.

JOSEPH P. LORDI,
DIRECTOR

5. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #277
In the Matter of a Petition to Lift)
the Automatic Suspension of Plenary
Retail Distribution License D-8,)
Issued by the Mayor and Council of On Petition
the Borough of North Arlington to)
ORDER
A & A Liquor & Delicatessen, Inc.)
203 Prospect Avenue
North Arlington, N. J.)

Goodman Singer, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division that on March 10, 1966, James Schimmenti, secretary-treasurer of the licensee-petitioner, was fined $25 in the North Arlington Municipal Court after being found guilty of a charge of sale of alcoholic beverages to a minor on October 30, 1965, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of the license for the balance of its term. R.S. 33:1-31.1. The suspension has not been effectuated because of the pendency of this proceeding.

It further appears that the municipal issuing authority has suspended the license for fifteen days effective January 19, 1966, after the licensee's confessive plea to a charge in disciplinary proceedings alleging the same sale to the minor. It appearing that the suspension has been served, I shall lift the automatic suspension. Re Shevitz, Bulletin 1603, Item 14.

Accordingly, it is, on this 23d day of March, 1966,

ORDERED that the statutory automatic suspension of said license D-8 be and the same is hereby lifted, effective immediately.

JOSEPH P. LORDI,
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Enrique Lopez Adams 200 River Street Hoboken, N. J. Holder of Plenary Retail Consumption License C-10, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken	CONCLUSIONS and ORDER

Licensee, Pro se.
Morton B. Zemel, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on February 28, 1966, he possessed alcoholic beverages in two bottles bearing labels which did not truly describe their 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 ten days effective January 2, 1963 and again for ten days effective May 14, 1963, both for sale during prohibited hours.

The license will be suspended for fifteen days (Re Bolten, Bulletin 1644, Item 6), to which will be added ten days by reason of the record of two suspensions of license for dissimilar violations occurring within the past five years (Re Bruno Hardcastle, Inc., Bulletin 1663, Item 9), 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 23d day of March, 1966,

ORDERED that Plenary Retail Consumption License C-10, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Enrique Lopez Adams for premises 200 River Street, Hoboken, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Wednesday, March 30, 1966, and terminating at 2:00 a.m. Tuesday, April 19, 1966.

JOSEPH P. LORDI,
DIRECTOR

7. DISQUALIFICATION REMOVAL PROCEEDINGS - ACCEPTING REBATES FROM INTERSTATE MOTOR CARRIERS - CONVICTION 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)
)
Case No. 1992) CONCLUSIONS

Diamond & Karas, Esqs., by Lawrence Diamond, Esq.

BY THE DIRECTOR:

Petitioner's criminal record discloses that on October 14, 1960, following a plea of guilty in the federal court in Newark to charges of knowingly and willfully accepting rebates from interstate motor carriers, in violation of Title 49 U.S.C.A., Section 317 (b) and Section 322 (c), he was fined $3,000.

Aforesaid conviction is not a conviction of a crime involving moral turpitude. See United States v. E. Brooke Matlack, Inc., 149 F. Supp. 814; United States v. Lowther Trucking Company, 229 F. Supp. 812.

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.

JOSEPH P. LORDI,
DIRECTOR

Dated: March 30, 1966.

8. DISCIPLINARY PROCEEDINGS - GAMBLING (WAGERING) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Irene Kulnis and Edward Kulnis 245 Avenue E Bayonne, N. J., Holders of Plenary Retail Consumption License C-114, issued by the Municipal Council of the City of Bayonne.	CONCLUSIONS and ORDER

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

BY THE DIRECTOR:

Licensees plead guilty to a charge alleging that on February 25, 1966 they permitted gambling (card game for money stakes) on the licensed premises, in violation of Rule 7 of State Regulation No. 20.

Licensees have a previous record of suspension of license by the municipal issuing authority for twenty days effective November 4, 1964, for sale during prohibited hours and permitting a female at the bar in violation of municipal regulation.

The license will be suspended for fifteen days (Re Sawicki, Bulletin 1645, Item 2), 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 Moore, Bulletin 1659, Item 4), or a total of twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days.

Accordingly, it is, on this 28th day of March, 1966,

ORDERED that Plenary Retail Consumption License C-114, issued by the Municipal Council of the City of Bayonne to Irene Kulnis and Edward Kulnis, for premises 245 Avenue E, Bayonne, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Monday, April 4, 1966, and terminating at 2 a.m. Tuesday, April 19, 1966.

Joseph R. Lordi
Director