

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

BULLETIN 1183

SEPTEMBER 5, 1957.

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STATE OF NEW JERSEY
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DIVISION OF ALCOHOLIC BEVERAGE CONTROL
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SEPTEMBER 5, 1957.

1. APPELLATE DECISIONS - LOZOWICK & DENES ET AL. v. NEWARK,
PARKWAY LIQUOR & DELICATESSEN, AND HOLIDAY BEVERAGES, INC.

LOZOWICK & DENES, ESSEX COUNTY)
RETAIL LIQUOR STORES ASSOCIATION,)
ET ALS.,)

Appellants,)

-vs-)

ON APPEAL
CONCLUSIONS AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY OF)
NEWARK, and PARKWAY LIQUOR &)
DELICATESSEN, and HOLIDAY)
BEVERAGES, INC.,)

Respondents.)

Leonard Brass, Esq., Attorney for Appellants, Lozowick & Denes,
Essex County Retail Liquor Stores Association, et als.
Vincent P. Torppey, Esq., by James E. Abrams, Esq., Attorney
for Respondent Municipal Board of Alcoholic Beverage Control.
Fox and Schackner, Esqs., by David B. Schackner, Esq.,
Attorneys for Respondent Parkway Liquor & Delicatessen.
Kasen, Schnitzer & Kasen, Esqs., by Daniel G. Kasen, Esq.,
Attorneys for Respondent Holiday Beverages, Inc.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Municipal Board whereby its members by a two-to-one vote approved the transfer of Plenary Retail Distribution License D-61 from respondent Parkway Liquor & Delicatessen, a corporation, to Holiday Beverages, Inc., and from premises 752 South Orange Avenue to 699 South Orange Avenue, Newark.

"Appellants contend that the transfer of the license in question was unlawful, arbitrary, capricious, an abuse of discretion and contrary to the evidence presented at the hearing before the respondent Board.

"The stenographic transcript of the proceedings before the respondent Board was submitted as part of the record of the case (Rule 8 of State Regulation No. 15). Additional testimony and exhibits were introduced at the hearing held herein.

"During the hearing below, the respondent issuing authority permitted the application for the transfer in question to be amended to provide another entrance to the premises sought to be licensed so that the distance between the entrance of the old location and that of the proposed location would be within 750 feet of each other, pursuant to the requirements of the footage ordinance applicable thereto. Inasmuch as such change of entrance at the new location had not affected any of the rights of potential objectors, the permission given by the respondent Board to amend the application for transfer does not appear to be improper.

"Appellants contend that the application for transfer of the license in question should not have been accepted by the respondent Board because by so doing it violated its own resolution dated October 4, 1955, to wit: 'Resolved by the Municipal Board of Alcoholic Beverage Control that where the Board has denied an application for the transfer of a plenary retail consumption or distribution license from person to person, or from place to place, or both, involving the same persons and/or the same places, no new application will be accepted within one year of the date of such denial unless the Board by majority vote permits the filing thereof.' It appears that this point was raised by the appellants because on March 20, 1956 the respondent Board denied an application for Joman Liquors, Inc. for transfer to it of a plenary retail distribution license from Louis Rosenberg and from premises 949 Broad Street to 683-699 South Orange Avenue, the latter being the proposed premises under consideration in the instant appeal. The resolution relied upon by the appellants herein must be strictly construed. Thus, since the parties to the prior application and the premises from which the license was sought to be transferred are not involved in the present matter, the resolution had no applicability thereto.

"Appellants further contended 'that the transfer of a retail distribution license to a premises wherein a "give away" program and a "green stamp" program is in effect is illegal and unlawful, since the general public is subject to inducement into this licensed premises, which is contrary to the pronouncements of the Director of Alcoholic Beverage Control and the laws of the State of New Jersey relating to alcoholic beverages' and in substantiation thereof cited Rule 20 of State Regulation No. 20, to wit:

'No licensee privileged to sell any alcoholic beverages at retail shall, directly or indirectly, offer or furnish any gift, prize, coupon, premium, rebate, discount or similar inducement with the retail sale of any alcoholic beverage...'

"The matter of permitting the distribution of trading stamps by a merchant who conducts a grocery, meat and vegetable market and also holds a plenary retail distribution license was ruled upon by former Commissioner Burnett. He held that 'The distribution of trading stamps based on the total price of merchandise purchased, where part of the merchandise is alcoholic beverages, is the distribution of stamps in conjunction with the sale of alcoholic beverages, and would be in violation of the Rule.' However, he further ruled that 'There is no objection, so far as the liquor laws are concerned, to giving trading stamps with purchases of meats, vegetables and groceries.' See Bulletin 257, Item 3. Thus, the contention advanced by appellants in this respect is without merit.

"Divers persons, some holders of liquor licenses, operating their establishments in the vicinity and others residing near the proposed premises objected to the proposed transfer as they were of the opinion that there were sufficient liquor outlets in the neighborhood to serve the needs of those desiring alcoholic beverages. The liquor licensees also objected to the transfer as they were of the opinion that it would affect them economically.

"The number of licensed places to be permitted in any particular area is a matter confided to the sound discretion of

the issuing authority. Santoriello v. Howell, Bulletin 252, Item 8; Sudol v. Wallington, Bulletin 267, Item 10; Pitman v. Pemberton, Bulletin 277, Item 6; Boody v. Gloucester, Bulletin 300, Item 11; Smith v. Winslow, Bulletin 334, Item 1; Alpert v. Asbury Park, Bulletin 380, Item 2; Winslow v. Pennsauken, Bulletin 401, Item 11; Bodrato v. Northvale, Bulletin 433, Item 1; Segal et als. v. Clifton et al., Bulletin 732, Item 5.

"The Director's function on appeals of this type is not to substitute his personal opinion for that of the issuing authority, but merely to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of his personal view on the subject. Rafalowski v. Trenton, Bulletin 155, Item 8; Northend Tavern, Inc. v. Northvale, Bulletin 493, Item 5; Petti v. Bayonne, Bulletin 564, Item 7; Mulcahy et al. v. Maplewood et al., Bulletin 658, Item 4.

"The fact that the transfer of the license may be contrary to the economic interests of the liquor licensees having establishments in the neighborhood is not a sufficient reason for setting aside the transfer. Knast et al. v. Camden et al., Bulletin 810, Item 2.

"Appellants further contend that the transfer of the license should be denied because Erwin Billett, president of the Parkway Liquor & Delicatessen, a corporation (the latter corporate-licensee now being the transferor of the license in question) testified at a prior hearing before the respondent Board in opposition to the application of Joman Liquors, Inc. for transfer of its license to the premises now sought to be licensed and when called as a witness in this proceeding contradicted his previous testimony. The record fails to disclose adequate proof that the members of respondent Board had given sufficient weight to Billett's testimony on either occasion to influence their respective votes in the matters.

"The final contention of appellants is that refusal of the two members of the respondent Board, who voted for the transfer of the license now being considered, to answer various questions propounded to them when called as witnesses at the appeal hearing by the appellants' attorney was prejudicial to their case. If no accurate record of a proceeding held before a local issuing authority were available there might be justification for complaint if the members who voted on the question under consideration refused to answer relevant questions. However, in the instant case the respondent Board produced a copy of the transcript of the proceedings below (marked as an exhibit in evidence) prepared by a certified shorthand reporter which contained the reasons given for the action of the Chairman of respondent Board. The other member who voted for approval of the application to transfer testified at the appeal hearing that he voted for approval for the same reasons as those stated by the Chairman. Therefore, I find no merit in this contention.

"I am satisfied after careful examination of all the evidence adduced herein that the members of respondent Board in approving the transfer were not improperly motivated in their action. Moreover, there is no evidence that they acted in an arbitrary, capricious or an unreasonable manner in reaching their determination.

"The burden of establishing that the action of respondent Board is erroneous and should be reversed rests with appellants. Rule 6 of State Regulation No. 15. This burden has not been sustained.

"Under all the facts and circumstances in this case I recommend that the action of respondent Board be affirmed."

Written exceptions to the Hearer's Report, pursuant to Rule 14 of State Regulation No. 15, and also written argument as to said exceptions were filed with me by the attorney for the appellants, and written answering argument was filed with me by the attorney for the respondent-licensee in this matter.

After careful consideration of the entire record in this case, including the transcript of testimony, the Hearer's Report and the exceptions and written arguments of counsel, I concur in and adopt the conclusions as recommended by the Hearer. Hence, I shall affirm the action of respondent Board.

Accordingly, it is, on this 2nd day of July, 1957,

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 the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
AUGUST EDWIN DANKER
T/a RADLEY LODGE
142 Lamberts Mill Road
Scotch Plains, PO Westfield, N.J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-4 (for the 1956-57 and 1957-58 licensing years), issued by the Township Committee of the Township of Scotch Plains.)

Fox and Schackner, Esqs., by Donal C. Fox, Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On December 21, 1956, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Robert ---, age 18, Frederick ---, age 19, Marylou ---, age 19, Joseph ---, age 19, and Harry ---, age 19, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.

"2. On January 11, 1957, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Jacqueline ---, age 19, Rosalie ---, age 19, and Gerhard ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

The file herein discloses that, acting upon information received from the Scotch Plains Police Department, ABC agents obtained copies of statements which had been given to a member of said Police Department by four of the five minors mentioned in Charge 1. In these statements each of the four minors stated that he or she was in defendant's licensed premises on the evening of December 21, 1956. Robert --- says that he is 18 years of age and that, during said evening, he purchased and consumed three glasses of beer which were served by defendant-licensee. Frederick --- says that he is 19 years of age and that, during said evening, he consumed the contents of three bottles of beer. Marylou --- says that she is 19 years of age and that, while seated at a table in the licensed premises on said evening, she consumed three mixed drinks which were purchased at the bar by one of the other minors. Joseph --- says that he is 19 years of age and that, on said evening, he had one glass of beer. No statement was obtained from Harry ---.

The file further discloses that, while ABC agents were on defendant's licensed premises on the evening of January 11, 1957, they observed two females drinking what appeared to be alcoholic beverages. The females were seated at a table with male companions and the drinks had been purchased at the bar by the males who carried the drinks to the table. Later the agents observed the licensee serve a bottle of beer to Gerhard --- who was seated with another male at another table. The agents then identified themselves and ascertained that the females mentioned above were Jacqueline --- (age 19) and Rosalie (age 19), each of whom admitted that she had consumed a mixed drink which had been purchased at the bar. The male companions were over the age of 21 years. The agents also ascertained that Gerhard was 20 years of age.

Defendant has a prior record. Effective November 11, 1943, the local issuing authority suspended his license for fifty days for sale to minors. Upon appeal to the then Commissioner the suspension was stayed. On May 26, 1944, the Commissioner affirmed respondent's action and reimposed the suspension effective June 5, 1944 (Danker v. Scotch Plains, Bulletin 621, Item 6). Effective March 26, 1956, I suspended defendant's license for a net period of ten days after he had pleaded guilty to a charge of selling alcoholic beverages to minors. Although the first mentioned violation occurred more than ten years ago, the violations considered herein are similar to defendant's second violation which occurred within the past five years.

Considering that at least seven minors were involved and considering the prior record of the licensee, I shall suspend defendant's license for forty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty days. Cf. Re Charbert, Inc., Bulletin 1144, Item 8.

Accordingly, it is, on this 2nd day of July, 1957,

ORDERED that Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of Scotch Plains to August Edwin Danker, t/a Radley Lodge, for premises 142 Lamberts Mill Road, Scotch Plains, be and the same is hereby suspended for forty (40) days, commencing at 2:00 a.m. July 15, 1957, and terminating at 2:00 a.m. August 24, 1957.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

GUS KATSANIS and ATHENA LOMBARDO,)
Co-Executors of the Est. of)
Peter N. Katsanis, Dec'd,)
T/a P. N. K. TAVERN)
97 Mallory Avenue)
Jersey City 4, N. J.,)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption)
License C-115 (for the 1956-57 and)
1957-58 licensing years), issued by)
the Municipal Board of Alcoholic)
Beverage Control of the City of)
Jersey City.)

Gus Katsanis and Athena Lombardo, Pro se.
David S. Piltzer, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that on Sunday, May 19, 1957, they sold alcoholic beverages in original containers for off-premises consumption in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that on Sunday, May 19, 1957, at about 1:10 p.m., two ABC agents entered defendants' licensed premises and took seats at the bar. At about 1:15 p.m. the agents heard a patron ask Anthony Lombardo (the bartender) for six cans of Piel's beer. The bartender thereupon took a pack of six twelve-ounce cans of aforementioned beer from a refrigerator, placed the pack in a brown paper bag and gave the package to the customer who paid \$1.10 for the same. The patron then left the premises from which he was followed into the street by one of the agents who stopped him, identified himself and escorted him back into the premises. Both agents then identified themselves to Lombardo, who orally admitted aforesaid violation.

The records of the Division disclose that the license for the premises in question, when held by defendants Gus Katsanis and Demetra Katsanis, t/a P.N.K. Tavern, was twice suspended by the local issuing authority for "hours" violations -- once for three days effective September 25, 1950, and the second time for ten days effective June 16, 1952. On June 3, 1953, this license was transferred from Gus Katsanis and Demetra Katsanis to Peter N. Katsanis and Demetra Katsanis

and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.'

"At the hearing held herein Evelyn --- testified that she was born on December 21, 1941; that on the evening of February 11, 1957, at about 8:00 p.m., she entered defendants' licensed premises with Martin ---; that, after they took seats at a table, Martin --- went to the bar, purchased from Peter Miskiewicz two glasses of beer and took the glasses to the table; that she and Martin --- each drank a glass of beer and a second glass of beer which Martin --- later purchased at the bar; that John --- and Frederick --- brought their glasses of beer to the table and that, after Martin --- left the premises, Frederick --- purchased at the bar glasses of beer which she, John --- and Frederick --- drank. She further testified that, during the previous week, she had visited defendants' premises about five times with Martin ---; that she had beer and soda on these occasions, and that on none of these visits, including the visit on February 11, 1957, was she questioned as to her age or required to make any written representation as to her age.

"John --- testified that he was born on March 21, 1938, and Frederick --- testified that he was born on April 16, 1937. Both testified that they entered defendants' premises about 7:30 p.m. February 11, 1957; went to the bar and purchased a couple of beers which they drank. They corroborated Evelyn's testimony as to their visit to the table and the purchase of an additional beer for her by Frederick ---.

"The Prosecutor stated that the Division was unable to produce Martin --- at the hearing because he is in military service and was transferred to the Great Lakes Naval Base, Chicago.

"On behalf of defendants, Peter Miskiewicz testified that he does not remember seeing John --- or Frederick --- in the premises but that Evelyn was in the premises on the evening of February 11 and that, although he did not serve her any beer, 'the boys took it back to her.'

"Considering the evidence set forth above, I conclude that Evelyn ---, John --- and Frederick --- were in defendants' licensed premises on the evening of February 11, 1957, and that alcoholic beverages were then sold and served to and consumed by each of said minors. Clearly, defendants are guilty of the charge so far as John --- and Frederick --- are concerned. However, defendants allege, in effect, that they have established a defense under the provisions of R. S. 33:1-77 so far as Evelyn --- is concerned. During the course of his testimony Peter Miskiewicz produced at the hearing a printed 'Representation and Statement' (marked in evidence as D-1), the upper part of which set forth the provisions of R. S. 33:1-81 and the lower part of which reads as follows:

'I have read the above notice and hereby represent and state, for the purpose of inducing Peter Miskiewicz, 1598 Mt. Ephraim Ave., Camden, N. J., to sell, serve or deliver alcoholic beverages to me, that I was born on December 21, 1934, and am 22 years of age.

Witness ---

Date: George Haven

Signed

Residence

Evelyn I. Mahaffey

22-Somerset St.,

Woodlawn'

Peter Miskiewicz testified that Evelyn --- and Martin --- were in defendants' premises on February 1, 1957; that he (Peter) then filled in his name and address and '2-1-57' on Exhibit D-1 and that Evelyn --- filled in 'December 21, 1934' and the name and residence appearing on said exhibit; that Evelyn was then dressed up and looked over 21; that, at the same time, Martin --- signed a similar 'representation and statement' (marked in evidence as D-2), and that, in reliance thereon, he sold beer thereafter to Evelyn --- and Martin ---. Peter further testified that Evelyn was also dressed up when she visited the premises on February 11, but that, when she came in again on February 12 or 13, he chased her out because she was then dressed in jeans and looked about 18 or 19; that she has never been in the premises since that time. However, Evelyn testified that she ran away from home on February 12 and that on February 17, when she then wore dungarees, she entered the premises with a sailor known to her only as 'Marv;' that Peter Miskiewicz then asked her to sign Exhibit D-1 because 'the police came in looking for me and says I was sixteen;' that she signed the name 'Mahaffey' (although that is not her correct name) because it was 'the first one came to my mind;' that 'Marv' then signed the name 'George Haven' on Exhibit D-1. When, on cross-examination, Evelyn's attention was called to the fact that February 17 was a Sunday and that licensed places in Camden are closed on Sunday, she testified that she returned home on Sunday, February 17, and that she and 'Marv' signed Exhibit D-1 on the day before she returned home.

"Considering all the evidence herein and the brief filed by the attorney for defendants, I conclude that, when the service of beer was made to Evelyn on February 11, defendants had no written proof of age signed by her; that Exhibit D-1 was not signed until February 16, and that Peter Miskiewicz inserted '2-1-57' on Exhibit D-1 on or after February 16. It is clear that the written representation must be signed before the sale is made (Bryla v. Newark, Bulletin 1136, Item 2). Moreover, it is difficult to believe that the appearance of a 15-year-old girl, even if attired in a low-cut dress and wearing high heels, was such that an ordinary prudent person would believe her to be 21 years of age or over. See R. S. 33:1-77(b). I conclude, therefore, that defendants have not established a defense under R. S. 33:1-77 so far as Evelyn is concerned. There is not sufficient proof as to sales on divers days prior to February 11 and there is no evidence as to the age of Martin ---. I recommend, therefore, that defendants be found guilty of so much of the charge as alleges that on February 11, 1957, they sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to Evelyn ---, John --- and Frederick ---, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon their licensed premises.

"Defendants have no prior record. The minimum suspension for sale to a 15-year-old minor is twenty-five days (Re Neuls, Bulletin 1099, Item 2). Because of the number of minors involved in this case, I recommend that the license be suspended for an additional five days, and that an order be entered herein suspending defendants' license for a period of thirty days."

Written exceptions and written argument as to said exceptions were filed with me by the attorneys for defendant-licensees, pursuant to Rule 6 of State Regulation No. 16.

After carefully considering the entire record, including the transcript of testimony, the Hearer's Report and the exceptions and written argument thereto, I concur in and adopt the conclusions in the Hearer's Report as my conclusions herein and, as recommended by the Hearer, I shall suspend defendants' license for thirty days. While these proceedings were pending defendants obtained a renewal of their license for the 1957-58 licensing year, which license is numbered C-75.

Accordingly, it is, on this 8th day of July, 1957,

ORDERED that Plenary Retail Consumption License C-75 (for the 1957-58 licensing year), issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Peter Miskiewicz & Mikolaj Miskiewicz, t/a Mike's Cafe, for premises 1598 Mt. Ephraim Avenue, Camden, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. July 16, 1957, and terminating at 2:00 a.m. August 15, 1957.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE) - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

FRANK ALBANESE & DOMINICK CAIAZZO)
T/a TROPICAL LOUNGE)
9266 Hudson Blvd.)
North Bergen, N. J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-77 (for the 1956-57 and 1957-58 licensing years), issued by the Alcoholic Beverage Control Board of the City of North Bergen.)

Frank Albanese & Dominick Caiazzo, Defendant-licensees, Pro se. Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charge:

"On Friday night, May 31 and early Saturday morning, June 1, 1957, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene conduct in and upon your licensed premises in that a female entertainer performed in a lewd, indecent and immoral manner, including in her routine what is commonly known as the 'strip tease'; in violation of Rule 5 of State Regulation No. 20."

The file herein discloses that two ABC agents entered the defendants' licensed premises at about 9:20 p.m. on Friday, May 31, 1957 and remained thereon until about 2:10 a.m. the next morning. An hour after their arrival, 45 patrons (male and female) were seated about the premises, Albert Caiazzo, a bartender, stood behind the bar; Frank Albanese, one of the licensees, was in the premises and a 3-piece band was supplying

music from a small stage visible to all occupants.

At 11:00 p.m., Paul Morris, the master of ceremonies, introduced Evelyn ---, an entertainer as follows: "She's a strip --- uh, an exotic dancer". Evelyn appeared on the stage, strutting across the same in a full length gown of lace and net open in front from her waist to the floor. The band started to play rhythmic music and Evelyn, in time with same, gave an exhibition of the familiar "bumps and grinds". At times in the course of her act she would assume squatting positions, spread her legs apart, stroke the inner sides of her thighs and from this position would initiate her "bumps and grinds". Shortly after her appearance on the stage she discarded her gown and in response to applause from the audience did a "strip tease" accompanied by "bumps and grinds", muscular movements of her breasts and a rotating of her buttocks, until she stood before the crowd in a transparent bra and net briefs which had the appearance of a G-string. At about 1:00 a.m., Evelyn was re-introduced to the audience and gave a repeat performance of her indecent dance as aforesaid except that at this time she had removed her bra and stood before the viewers in her panties and with two flesh-colored "pasties" concealing a small area of her breasts.

Upon questioning by the agents, the licensees stated that a booking agent had furnished this act for Friday and Saturday night and that the Saturday performance would be cancelled. They were unable to say why, after seeing Evelyn's first performance on Friday evening, they took no action to curb the second performance on that evening, but later stated they were unaware that it was a violation to permit a strip tease in a tavern.

By way of mitigation the licensees have submitted a statement wherein they say that they had to depend solely upon the judgment of the booking agent who, they believed, had knowledge of the type of show permissible on licensed premises. Regardless thereof, it is the duty of a licensee to present only wholesome entertainment and if he chooses to do otherwise, he does so at his peril.

Defendants have no prior adjudicated record. Under the circumstances, I shall suspend their license for twenty days. Re Entertainment Enterprises, Inc., Bulletin 1181, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 9th day of July, 1957,

ORDERED that Plenary Retail Consumption License C-77, for the 1957-58 licensing year, issued by the Alcoholic Beverage Control Board of the City of North Bergen to Frank Albanese & Dominick Caiazzo, t/a Tropical Lounge, for premises 9266 Hudson Blvd., North Bergen, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. July 22, 1957 and terminating at 3:00 a.m. August 6, 1957.

WILLIAM HOWE DAVIS
Director.

6. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - ALCOHOL ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO OWNER.

In the Matter of the Seizure) Case No. 9488
on May 13, 1957 of a quantity)
of alcohol and a Ford coupe on)
the northbound lane at the)
36 Mile Post of the New Jersey) ON HEARING
Turnpike in the Township of Mount) CONCLUSIONS AND ORDER
Laurel, County of Burlington and)
State of New Jersey.)
-----)

Bryant Lee Little, Pro se.
I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey to determine whether two two-quart jars of alcohol and a Ford coupe described in a schedule attached hereto, seized on May 13, 1957 on the northbound lane at the 36 Mile Post of the New Jersey Turnpike, Mount Laurel Township, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R. S. 33:1-66, Bryant Lee Little appeared on his own behalf and sought return of the motor vehicle. No one opposed forfeiture of the alcoholic beverages.

Reports of ABC agents and other documents in the file, presented in evidence with consent of Bryant Lee Little, disclose the following facts:

On the above date and location a New Jersey State Trooper halted the motor vehicle during the course of his routine patrol of traffic on the highway. The trooper ascertained that Charles Little was the operator of the car and was accompanied by Charles Read Day and Robert Andy Tillman. The automobile bore North Carolina license plates HD3879, registered in the name of Bryant Lee Little of Winston Salem, North Carolina. The trooper discovered two two-quart jars of alcoholic beverages in the trunk of the car. Neither of these jars had affixed to it a tax stamp indicating the payment of tax on alcoholic beverages. Thereupon the three persons in the motor vehicle were arrested by the trooper who also took into custody the motor vehicle and alcoholic beverages. Later such alcoholic beverages and motor vehicle were turned over to ABC agents.

A sample of the contents of one of the jars was analyzed by the Division's chemist who reports it is alcohol and water fit for beverage purposes with an alcoholic content by volume of 50.2 percent.

The alcoholic beverages are illicit because of the absence of a tax stamp on either of the jars. R.S. 33:1-1(1), R.S. 33:1-88. Such illicit alcoholic beverages and the motor vehicle in which they were transported and found constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

Bryant Lee Little seeks return of his car on a claim that he is absolutely innocent of any wrongdoing and in particular, of any violation of the laws of New Jersey pertaining

to alcoholic beverages. He testified that he is 23 years of age; that he has been married for two years and living with his wife and two children; that he is employed as a janitor; that his wife works as a laundress; that his income is about \$50.00 a week; that his wife earns between \$20.00 and \$25.00 a week; that these salaries are sufficient to support his family; and that he never trafficked in illicit liquor. He further testified that his brother, Charles Little, drove from New York to North Carolina to pay him a visit; that his brother's automobile had been wrecked; that he loaned his car to Charles to return to New York; that this was the first time he had given his brother the use of his automobile; that at the time he gave his brother his automobile no mention was made to him that the car would be used to transport liquor and that no such thought entered his mind.

Charles Little, a witness in behalf of the claimant, testified as follows: That on Friday, May 10, 1957 he left New York in his automobile, with Robert Andy Tillman and Charles Read Day for a visit to his mother's home in Winston Salem, North Carolina; that after he left Rocksboro, North Carolina he had an accident which resulted in his automobile being towed to a garage; that later his brother, Bryant Lee Little, picked him up in his car and drove him to Winston Salem; that he had asked his brother for the use of his car to return to New York; that his car was still in disrepair; that he never mentioned to his brother that he intended to transport alcohol because he had no thought of the same; that on his way north to pick up Charles Read Day in Rocksboro he visited the home of Day's brother who gave Day the aforesaid two quart jars of alcohol.

Charles Read Day testified on behalf of the claimant and his testimony is to the same effect as that of Charles Little and that the alcohol was for the use of a family party.

The fingerprint records of Charles Little, Robert Andy Tillman and Charles Read Day do not disclose any previous record or violation of any law.

In the absence of any previous criminal record of Charles Little, Charles Read Day or Robert Andy Tillman it seems unfair to punish Bryant Lee Little for helping his brother in distress. I am satisfied that Bryant Lee Little is innocent of any wrongdoing and to take his car from him under the circumstances would be unfair and work a hardship on him.

Accordingly, it is DETERMINED and ORDERED that if on or before the 8th day of July, 1957, Bryant Lee Little pays the costs of seizure and storage of the Ford coupe described in Schedule "A" hereinafter set forth, such coupe will be returned to him; and it is further

DETERMINED and ORDERED that the two two-quart jars of alcoholic beverages listed in the aforesaid Schedule "A" constitute unlawful property, and the same be and hereby are forfeited in accordance with the provisions of R. S. 33:1-66, and that they be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
Director.

Dated: June 26, 1957.

SCHEDULE "A"

- 2 - two-quart "Mason" jars of alcohol
- 1 - Ford coupe, Serial No. 98BA2575551, Engine No. W329780D, North Carolina Registration HD3879.

7. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against)
 WINE & GAME SHOP INCORPORATED) AMENDED ORDER
 6 Nassau Street)
 Princeton, N. J.,)
 Holder of Plenary Retail Distribution License D-7 (for the 1956-57 and 1957-58 licensing years), issued by the Mayor and Council of the Borough of Princeton.)

 Warren & Stein, Esqs., by George Warren, Esq., Attorneys for-
 Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

On June 19, 1957, I entered an order herein suspending the license then held by defendant for five days commencing at 9:00 a.m. June 24, 1957, and terminating at 9:00 a.m. June 29, 1957.

By telegrams dated June 21, 1957, said suspension was temporarily stayed after application for a stay was made on behalf of defendant because it had made arrangements for delivery and receipt of alcoholic beverages during the week beginning June 24, 1957, which could not be cancelled on such short notice.

It appears that defendant has obtained a renewal of its license for the 1957-58 licensing year. The suspension will be imposed upon the renewed license.

Accordingly, it is, on this 1st day of July, 1957,

ORDERED that the order heretofore entered herein be amended to read as follows:

"ORDERED that Plenary Retail Distribution License D-7 (for the 1957-58 licensing year), issued by the Mayor and Council of the Borough of Princeton to Wine & Game Shop Incorporated, 6 Nassau Street, Princeton, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. July 8, 1957, and terminating at 9:00 a.m. July 13, 1957."

WILLIAM HOWE DAVIS
 Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 NORAH F. ARNTS
 T/a ARNT'S TAVERN
 852 Main Street
 Hackensack, N. J.,
 Holder of Plenary Retail Consumption License C-43 for the 1956-57 and 1957-58 licensing periods, issued by the City Council of the City of Hackensack.

CONCLUSIONS AND ORDER

 Abraham P. Bab, 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 amendatory charge:

"On Saturday, June 1, 1957, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Richard W. ---, age 17, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

The file herein discloses that on June 1, 1957, at about 10:20 p.m., two ABC agents observed the bartender employed by defendant serve a glass of beer to one Richard W. ---, who appeared to them to be a minor. The agents immediately identified themselves to Richard who readily admitted that he was only 17 years of age.

The attorney for the defendant, in attempted mitigation of penalty, contends that the uncle of the minor who had accompanied him at the time, when questioned as to his nephew's age told the bartender that the youth was old enough to have a glass of beer; that on the strength of such representation the bartender served beer to the minor. The attorney also submitted a number of letters from neighbors and patrons of defendant's licensed establishment which praised the defendant and the manner in which her business was operated.

In the instant case the minor himself was not interrogated by the bartender with reference to his age and was not required to sign a written representation as to his age prior to serving alcoholic beverages to him. See R. S. 33:1-77. Although I may be sympathetic in view of the circumstances appearing herein, I cannot overlook the fact that service of alcoholic beverages to a 17-year-old minor is a serious violation and warrants a proper penalty.

The minimum penalty, where the licensee has no prior adjudicated record, for service of alcoholic beverages to a minor 17 years of age is twenty days. Re O'Donnell, Bulletin 1131, Item 9. I shall, therefore, suspend defendant's license

for a period of twenty days, less five days' remission for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 15th day of July, 1957,

ORDERED that Plenary Retail Consumption License C-43, for the 1957-58 licensing period, issued by the City Council of the City of Hackensack to Norah F. Arnts, t/a Arnt's Tavern, 852 Main Street, Hackensack, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. July 22, 1957, and terminating at 2:00 a.m. August 6, 1957.

WILLIAM HOWE DAVIS
Director.

9. STATE LICENSES - NEW APPLICATIONS FILED.

Affiliated Distillers Brands Corp.

T/a Brandy Distillers Company, Dant Distillers Company, Schenley Distillers Company, Schenley Import Company, I. W. Harper, Ancient Age Distillers Company

21-23 Ocean Avenue, Jersey City, N.J.

Application filed August 28, 1957 for place-to-place transfer of Plenary Wholesale License W-41 from Room 1105, 26 Journal Square, Jersey City, N. J.

Affiliated Distillers Brands Corp.

T/a Brandy Distillers Company, Dant Distillers Company, Schenley Distillers Company, Schenley Import Company, I. W. Harper, Ancient Age Distillers Company

21-23 Ocean Avenue, Jersey City, N.J.

Application filed August 28, 1957 for place-to-place transfer of Warehouse Receipts License WR-9 from Room 1105, 26 Journal Square, Jersey City, N. J.

Strickland Motor Freight Lines, Inc.

621 Grove Street

Elizabeth, N.J.

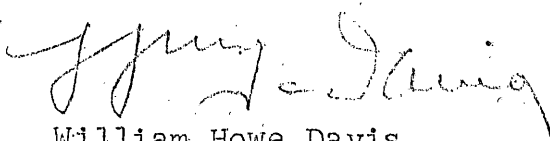
Application filed August 29, 1957 for Transportation License.

Hall's Motor Transit Company

Sipp Avenue and New Jersey Highway Route #1

Jersey City, N. J.

Application filed August 30, 1957 for place-to-place transfer of Transportation License T-193 from 35 Florence Street, Jersey City, N. J.



William Howe Davis
Director.