

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

BULLETIN 1946

January 7, 1970

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - TO-JON, INC. v. WATCHUNG
2. DISCIPLINARY PROCEEDINGS (JERSEY CITY) - GAMBLING (HORSE RACE AND NUMBERS BETS) - LICENSE SUSPENDED FOR 60 DAYS.
3. DISCIPLINARY PROCEEDINGS (NORTH BERGEN) - GAMBLING (CARD GAME) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS.
4. DISCIPLINARY PROCEEDINGS (ATLANTIC CITY) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (RARITAN) - SALE DURING PROHIBITED HOURS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (JEFFERSON TOWNSHIP) - FRONT - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (NEWARK) - CANCELLATION OF UNLIMITED SOLICITOR'S PERMIT.
8. DISCIPLINARY PROCEEDINGS (ATLANTIC CITY) - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
9. STATE LICENSES - NEW APPLICATION FILED.

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

BULLETIN 1946

January 7, 1970

1. APPELLATE DECISIONS - TO-JON, INC. v. WATCHUNG

To-Jon, Inc.,

Appellant,

v.

Mayor and Council of the
Borough of Watchung,

Respondent.

On Appeal

CONCLUSIONS and ORDER

William C. Slattery, Esq., Attorney for Appellant
Harold G. Pierson, Esq., Attorney for Respondent
James W. Hurley, Esq., Attorney for Objectors

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent whereby on June 30, 1970, by a unanimous vote of its members, it denied appellant's application for renewal of plenary retail consumption license for 1970-71, for premises 708 Mountain Boulevard, Watchung.

Appellant alleges in its petition of appeal that the action of respondent was erroneous and should be reversed as "there was no testimony to support the findings of the respondent; there was and is in fact an intention to operate the premises and appellant is entitled to a renewal of the license by reason of the fact that it has complied with all of the requirements of respondent Borough in relation thereto, and the action of the Borough in refusing to renew said license was arbitrary and without foundation in fact and law."

Respondent in its answer denied the allegations aforementioned, and an order dated July 6, 1970, extending the term of appellant's 1969-70 license was entered by the Director.

A short resume of the background concerning the license in question may clarify the situation herein. An examination of the records in this matter disclosed that R. & G. Rendesvous Corporation (the transferor) went into receivership and one Sanford Silverman was appointed by the court as assignee for the benefit of creditors.

Appellant filed an application for a person-to-person transfer of the liquor license. On December 22, 1969 respondent approved the said transfer from Sanford Silverman (assignee) to appellant.

John Daidone (president of appellant) testified that he had never been in the restaurant or liquor business and thus

sought to employ experienced help to operate the establishment. Daidone stated that he negotiated with a number of people familiar with that type of business. Daidone further stated he has now retained the services of a man named William Caruso who for many years was the owner of a tavern.

Daidone also testified that appellant purchased the license and that another corporation of which he (Daidone) is president purchased the premises. However, the necessary furnishings and fixtures which were in the premises were not included in the sale. Daidone said that negotiations were in progress since December 1969 to obtain the fixtures and now that problem has been resolved.

On cross examination the attorney for respondent presented photographs depicting various views of the outside of the licensed premises, which photographs were identified by Daidone who said they accurately show the condition of the property.

James W. Hurley (an attorney), stated for the record that he represented an objector, one Arthur VanDorn who lives at 59 Norwood Drive, Watchung, a distance of three-tenths of a mile from the appellant's premises. However, the said objector was not called to testify with reference to his objections. Mr. Hurley said that he (Hurley) lives at 15 Norwood Drive, Watchung, and that for many years the place was operated as one of the finest restaurants in the area but some time ago had been closed prior to the appellant acquiring the licensed premises. However, when Mr. Hurley asked Daidone if the appellant intended to actually operate the business, Daidone replied that it would and, if the renewal is granted, within two weeks thereafter the place would open for business as that period of time would be needed to obtain stock and to thoroughly clean the entire place. Moreover, Daidone stated appellant would open "as a cocktail lounge, but, again, I hope to operate it as a restaurant."

The evidence presented herein appears to indicate that appellant acted in good faith when it applied for transfer of the license.

An owner of a license or privilege acquires by reason of its investment therein an interest which is entitled to some measure of protection in connection with a transfer. Tp. Committee of Lakewood Tp. v. Brandt, 38 N.J. Super. 462 (App.Div. 1955). This also applies to a licensee seeking renewal of the license. Furthermore, in the Brandt case it was ruled that under the law a case is heard de novo by the Director, Cino v. Driscoll, 130 N.J.L. 535 (Sup.Ct. 1943), and he may properly rely on the evidence brought out in the Division. See Florence Methodist Church v. Township Committee of Township of Florence, 38 N.J. Super. 85 (App.Div. 1955).

Under the circumstances herein, I am satisfied that respondent's action was unreasonable in depriving appellant of its license by denying the renewal thereof.

It is therefore recommended that the action of the respondent be reversed and that it be directed to grant the application filed by appellant for renewal of its license for the 1970-71 licensing period if appellant has complied with all other necessary prerequisites.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

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

Accordingly, it is, on this 30th day of October 1970,

ORDERED that the action of respondent be and the same is hereby reversed, and respondent is directed to grant renewal of appellant's license for the 1970-71 license period in accordance with the application theretofore filed.

RICHARD C. McDONOUGH,
DIRECTOR

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

In the Matter of Disciplinary
Proceedings against

Venezia's Tavern, Inc.
1057-59-61 West Side Ave.
Jersey City, N. J.,

Holder of Plenary Retail Consumption
License C-87 (for 1969-70 and 1970-71
license periods), issued by the
Municipal Board of Alcoholic Beverage
Control of the City of Jersey City.

CONCLUSIONS
and
ORDER

Louis E. Saunders, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for the Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to charges as follows:

- "1. On May 26, June 4, 6 and 12, 1969, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets in a lottery, commonly known as the 'numbers game' on said dates of May 26, June 4 and 12, 1969, and on horse races on said dates of June 4 and 6, 1969; in violation of Rule 7 of State Regulation No. 20.
- "2. On May 26, June 4 and 12, 1969, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game', to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

Trooper G (a member of the State police), having qualified as to his expertise in the field of gambling investigation, testified that he visited licensee's premises on May 26, 1969, June 4, 1969, June 6, 1969 and June 12, 1969.

At 2:15 p.m. on May 26, 1969 he entered the tavern and observed a man (later identified as Carmine Venezia (hereinafter Carmine)) tending bar, and John Venezia (hereinafter John) was also in the premises. Thereafter Trooper G said he observed a patron known as Tom, who was seated at the bar, answer the telephone, return to Carmine and say "somebody has numbers for you, Carmine." Carmine then went to the phone booth, returned shortly thereafter, and gave a slip of white paper to Tom saying "Here's the action." Several minutes later a male entered the barroom and said "Carmine, give me 139 for \$1." Carmine took a slip of paper from his pocket, wrote on it and said, "O.K., you're in." Thereafter Carmine gave the slip to Tom.

Trooper G testified that he recognized the transaction as a "lottery bet, numbers", and that the previous transaction was "some one was calling numbers in to Carmine." Trooper G testified that, as to the first occurrence, he "had no idea what the numbers were or how much it was played for." As to the second occurrence, "it was betting \$1 on 139 to come out in that order, 139."

On June 4, 1969 Trooper G entered the premises at 2:30 p.m. and took a seat at the bar. He testified that Carmine was tending bar and that he observed a male enter and say to Carmine, "I want 134 and 185 for 50 cents each, Carm." He then handed Carmine a one-dollar bill and Carmine wrote on a piece of paper. Subsequent thereto a male entered and said to Carmine, "Carm, give me the sheet." Carmine pulled a "scratch sheet" from his pocket and gave it to the male who shortly thereafter handed Carmine the scratch sheet and a five-dollar bill, saying "Carmine, put it to win on the 2 horse." Carmine then wrote on a piece of paper and placed the paper in the front pocket and the scratch sheet in the rear pocket of his trousers.

On June 6, 1969 Trooper G stated he entered at 12:40 p.m. and observed Tom being present. At 12:50 p.m. Carmine came from the kitchen and sat at a table occupied by two males. He observed Carmine give a scratch sheet to one of the male patrons who returned it to Carmine with paper currency. Carmine then made notations on a piece of white paper, walked to the phone booth, met Tom and handed the piece of paper to him. Trooper G characterized this transaction as a horse bet.

As to June 12, 1969, Trooper G testified that he arrived at 12:30 p.m.; that Carmine was tending bar; that shortly thereafter a male entered, seated himself three stools to the left of Trooper G, handed a one-dollar bill to Carmine and said, "Carmine, 245." Carmine then placed the money in his pants pocket and walked into the kitchen.

Although subjected to lengthy cross examination, Trooper G adhered to the testimony given by him on direct examination as to what he observed and heard on the licensed premises on the dates in question as set forth in the charges.

On behalf of the licensee John testified that he is employed as manager of the premises and holds no stock in the corporation; that Carmine does not work at the licensed premises

but occasionally helps out; that he (John) has no knowledge of any gambling activities on the licensed premises nor had he ever witnessed or permitted such activities.

Florence Venezia (wife of John and owner of 125 shares of the stock) testified that she has no knowledge of any gambling activities ever having taken place on the licensed premises.

Marion Scuzzese (employed at the licensed premises as a waitress) testified that, although Carmine is not a regular employee, he occasionally helps out at the bar; that she has never seen anyone engage in any gambling activities on the licensed premises.

Obviously the major point is factual. In adjudicating this matter I observe that, in evaluating the testimony and its legal impact, we are guided by the firmly established principle that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956).

In appraising the factual pictures presented in the proceedings, the credibility of witnesses must be weighed. Testimony, to be believed, must not only proceed from the mouth of a credible witness but must be credible in itself. It must be such as the common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954).

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

John testified that Carmine was not an employee and that he (the manager) had no knowledge whatever of any gambling activities on the licensed premises and, therefore, the licensee should not be held accountable. "The Commissioner [now Director] . . . has consistently construed the word 'employed' as used in said regulation to embrace 'all persons whose services are utilized in furtherance of the licensed business notwithstanding the absence of a technical employer-employee relationship.'" Kravis v. Hock, 137 N.J.L. 252, 255 (Sup.Ct. 1948). By application of this rule there is no doubt that Carmine was an employee. It is a well established and fundamental principle that a licensee is responsible for the misconduct of persons employed on licensed premises. In re Olympic, Inc., 49 N.J. Super. 299; Rule 33 of State Regulation No. 20.

Further, it is axiomatic that licensees otherwise in charge of the licensed premises may not avoid responsibility for the conduct of the premises by merely closing their eyes and ears. On the contrary, licensees or other employees must use their eyes and ears and use them effectively to prevent the improper use of their premises. Bilowith v. Passaic, Bulletin 527, Item 3.

The testimony of Trooper G stands uncorroborated, and is supported by no physical evidence of any kind. It should be noted, however, that "It makes no difference whether the bets are committed to paper or to memory, and hence it is not necessary to prove a tangible record was made." State v. De Stasio, 49 N.J. 247, 253 (1967).

Accordingly, after considering the entire record, I am satisfied and find as a fact that the Division has sustained the burden of proof by a preponderance of the credible evidence and I therefore recommend that the licensee be found guilty as charged.

Licensee has no previous record. It is therefore further recommended that its license be suspended for a period of sixty days. Re Guy, Bulletin 1926, Item 3.

Conclusions and Order

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

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

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

Accordingly, it is, on this 29th day of October 1970,

ORDERED that Plenary Retail Consumption License C-87, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Venezia's Tavern, Inc., for premises 1057-59-61 West Side Avenue, Jersey City, be and the same is hereby suspended for sixty (60) days, commencing at 2 a.m. Monday, November 9, 1970, and terminating at 2 a.m. Friday, January 8, 1971.

RICHARD C. McDONOUGH
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - GAMBLING (CARD GAME) - PRIOR
DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary
Proceedings against

Perla's Inc.
t/a Perla's
733 Kennedy Boulevard
North Bergen, N.J.

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption
License C-43, issued by the Municipal
Board of Alcoholic Beverage Control
of the Township of North Bergen.

Edwin C. Eastwood, Jr., Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"On April 4, 1970, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the playing of a card game for stakes of money; in violation of Rule 7 of State Regulation No. 20."

In behalf of the Division agent D of the ABC testified that he entered the licensed premises in the company of agent B, which premises he described to the satisfaction of all parties. The agents seated themselves at the bar and observed approximately twenty patrons and one Peter Perla, owner of 50 percent of the stock in the corporate licensee.

The agents were seated approximately seven feet from a table at which two male patrons were observed playing cards. Agent D later learned the names of the patrons playing cards to be Francis Fasciola (hereinafter Fasciola) and Herman Gutjahr (hereinafter Gutjahr). Agent D testified concerning his experience in gambling investigations including "Gin Rummy" and went to some length to describe the game.

He testified further that he observed for approximately one half hour that Fasciola and Gutjahr had finished a game which was in progress when the agents arrived and then played another complete game.

He further testified that at the completion of the second game he observed that Fasciola removed two - \$10 bills from his pocket, laid them on the table, and that Gutjahr picked up the money and placed it in his pocket. Fasciola and Gutjahr then walked to the rear of the premises. He further testified that he had the following conversation with Peter Perla (hereinafter Perla):

"These fellows are pretty good players".

"What did these fellows usually play for?"

He (Perla) said, "1 and 2, 5 and 10, 10 and 20."

He (agent D) testified further that from his knowledge and experience he was aware that these numbers represented amounts of money to be paid by loser to winner in "Gin Rummy" game. Agent D phoned the local police who responded and made the arrests of Fasciola and Gutjahr.

Agent D further testified that he seized sixteen decks of cards from a drawer behind the bar and a "green, IBM type card" on which the score of the game had been kept. The green card was then entered into evidence and Agent D interpreted the score. Agent D testified at some length regarding the "green scoring card" and concluded that in his opinion, one player had won two more games than the other and that therefore twenty dollars represented payment for the winning of two games at \$10 per game.

On cross examination agent D testified that he had been in one other tavern prior to Perla's on that date on assignment. That he had had four draft beers there and two mixed drinks at Perla's. That in addition to his fifteen years experience with the game of "Gin Rummy" he had also read "Scarne on Cards."

Agent B testified and substantially corroborated the testimony of Agent D. He further testified that he had played and scored the game of "Gin Rummy" hundreds of times and that at the conclusion of the card game, one of the participants, Fasciola or Gutjahr, returned the deck of cards to Perla who placed them in a drawer behind the bar.

On behalf of the licensee Fasciola testified that on the date in question he was playing cards with Gutjahr at the licensed premises. That he and Gutjahr were not playing for money; that some ten minutes after the game, and at the pool table in the back of the bar, he lent Gutjahr twenty dollars. That this was some twenty-five feet from where the card game had taken place. That the payment of twenty dollars had nothing to do with the card game.

Gutjahr testified on behalf of the licensee that he borrowed twenty dollars from Fasciola, some ten or fifteen minutes after the conclusion of the card game, and that this took place at the pool table some twenty-five feet from the location of the card game. That he did keep the score of the card game (D-2 in evidence); that the symbols "X" and "O" on D-2 had nothing to do with an accounting of any money.

On cross examination he testified that he occasionally helps in the licensed premises tending bar; that he is retired and spends almost every day in the licensed premises; that after studying D-2 in evidence, it was his opinion that he was three games ahead of Fasciola at the conclusion of the game.

Leonard Schroeder testified for the licensee that while he was on the licensed premises on the date of April 4, 1970, he was seated some distance from the table where Fasciola and Gutjahr were playing cards. That he was seated near the pool table; that he saw Fasciola and Gutjahr near the pool table; that he did not see any money change hands at the pool table between Fasciola and Gutjahr but that he was seated facing the bar.

On cross examination he explained that he did not know anything about what happened at the card table and did not know whether any money was put on the table or not.

Perla testified that he was secretary-treasurer of the corporate licensee and holder of 50 percent of the stock in said corporation. He further testified that he denied having the conversation with Agent D. He further denied that he had any knowledge that Fasciola and Gutjahr were playing for money.

On cross examination he testified that he did permit people to play cards in his premises. That on the date in question, he did not check to find out whether Fasciola and Gutjahr were playing for money; that he generally told card players not to play for money; that once he gave cards to players he left it up to them altogether without admonishment that they should not gamble.

At the conclusion of the Division's case, the licensee's attorney moved to dismiss the charges arguing that there was no establishment of any expertise of either of the agents, and secondly, that the conclusion of the witnesses were based on pure supposition.

It is settled in this state that a person may be qualified to testify as an expert either by study without practice or by practice without study. State v. Campisi, 42 N.J. Super. 138 at p. 148. (App. Div. 1956).

The agents having testified as to their extensive experience regarding "Gin Rummy", I find that they are amply qualified to express an opinion regarding the likelihood of gambling in the instant case. Further, their personal, extensive observation precluded the possibility that their opinion that gambling had taken place in the licensed premises was based on mere supposition. Having so found, I now recommend that the motion to dismiss be denied.

It is a basic and firmly established principle that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956).

In appraising the factual picture presented herein, the credibility of witnesses must be weighed. Testimony, to be believed, must not only proceed from the mouth of a credible witness but must be credible in itself. It must be such as the common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954).

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

A review of the record impels me to find that the licensee did allow, permit or suffer gambling on the licensed premises in violation of Rule 7 of State Regulation No. 20.

I am satisfied that the description of the incident as disclosed by agents D and B is accurate and correct. I am further impelled to the conclusion that the licensee by his careless indifference to the conduct of his establishment, virtually invited gambling by permitting the playing of cards on the premises, and further, by supplying the cards with which his patrons played.

The testimony of Perla indicates that he did not exercise that degree of diligence required of licensees to prevent the occurrence of prohibited conduct on the licensed premises.

As long ago as 1938, the first commissioner of the ABC said:

"As a practical matter, licensees take long chances when they permit either cards or dice upon licensed premises." (See Re Pease, Bulletin 226, Item 5).

The licensee testified that he did permit patrons to play cards on the premises and that on the date in question he did not check to see whether Fasciola or Gutjahr were gambling. He further admitted that after giving the cards to the players, he leaves it to them without admonishment, not to gamble.

"A licensee may not escape or avoid his responsibility for conduct occurring on his premises by merely closing his eyes and ears ...licensees, or their agents or employees must use their eyes and ears and use them effectively, to prevent the improper use of their premises." Re DiMattia, Bulletin 1645, Item 1.

Therefore, under the circumstances and from the testimony of the agents, I find that the licensee allowed, permitted and suffered the playing of a card game for money upon the licensed premises on April 4, 1970.

"Although the word 'suffer' may require a different interpretation in the case of a trespasser, it imposed responsibility on a licensee, regardless of knowledge [emphasis added] where there is a failure to prevent the prohibited conduct by those occupying the premises with authority." Essex Holding Co. v. Hock, 136 N.J.L. 28 at p. 31 (1947).

After reviewing the evidence and exhibits, I conclude that the Division has established the truth of the charge by a fair preponderance of the believable evidence and recommend that the licensee be found guilty as charged.

Licensee has a prior adjudicated record. On August 5, 1968 this license was suspended by the Director for five days for the possession of liquor not truly labeled. It is, therefore, further recommended that an order be entered suspending the license for fifteen days on the charge herein, and for an additional five days for the prior dissimilar violation which occurred within the past five years, making a total suspension of twenty days. Re Kropenski and Sudder, Bulletin 1425, Item 5.

Conclusions and Order

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

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

I have also considered the entire record herein, including the transcript of the testimony, the exhibit and the Hearer's report, and concur in the findings and recommendations

of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 28th day of October 1970,

ORDERED that Plenary Retail Consumption License C-43 issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen to Perla's Inc., t/a Perla's, for premises 733 Kennedy Boulevard, North Bergen, be and the same is hereby suspended for twenty (20) days, commencing at 3 a.m. Tuesday, November 10, 1970, and terminating at 3 a.m. Monday, November 30, 1970.

RICHARD C. McDONOUGH
DIRECTOR

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

In the Matter of Disciplinary
Proceedings against

CEIL'S LTD.
t/a Ceil's Saratoga
203-205 S. New York Ave. &
142-144-146 St. James Place
Atlantic City, N. J.,

Holder of Plenary Retail Consump-
tion License C-129, issued by the
Board of Commissioners of the City
of Atlantic City.

CONCLUSIONS
AND ORDER

Blatt, Blatt & Mairone, Esqs., by Martin L. Blatt, Esq.,
Attorneys for the Licensee.
Walter H. Cleaver, Esq., Appearing for the Division.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on June 26, 1970 it 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 record of suspension of license by the Director for forty-five days, effective June 2, 1970, for permitting immoral activity (indecent conduct by apparent homosexual patrons) on the licensed premises. Re Ceil's Ltd., Bulletin 1916, Item 7, effective dates of such suspension being stayed by appeals to the Superior Court of New Jersey, Appellate Division, and the United States District Court for the District of New Jersey respectively. Upon dissolution of the stay and dismissal of the complaint in the United States District Court for the District of New Jersey, by Order entered August 6, 1970, the forty-five day suspension of license was reimposed by the Director, effective August 25, 1970. Re Ceil's Ltd., Bulletin 1924, Item 5.

This record of suspension for dissimilar violation occurring within five years of the date of the violation of the charge herein considered, the license will be suspended for twenty days,

with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Ward, Bulletin 1898, Item 7.

Accordingly, it is, on this 29th day of October, 1970,

ORDERED, that Plenary Retail Consumption License C-129, issued by the Board of Commissioners of the City of Atlantic City to Ceil's Ltd., t/a Ceil's Saratoga, for premises 203-205 S. New York Ave. & 142-144-146 St. James Place, Atlantic City, be and the same is hereby suspended for fifteen (15) days, *commencing at 7:00 a.m. Thursday, November 12, 1970, and terminating at 7:00 a.m. Friday, November 27, 1970.

RICHARD C. McDONOUGH
DIRECTOR

*By Order dated November 13, 1970, the effect of the suspension was lifted for one day, viz.: suspension to commence at 7:00 A.M. Thursday, November 12, 1970 and terminate 7:00 A.M. Thursday, November 26, 1970, and again commence at 7:00 A.M. Friday, November 27, 1970 and terminate 7:00 A.M. Saturday, November 28, 1970.

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

In the Matter of Disciplinary
Proceedings against

DeCicco's, Inc.
t/a "DeCicco's"
10 Anderson Street
Raritan, N.J.,

CONCLUSIONS
and
ORDER

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

Mott and Soriano, Esqs., by Daniel C. Soriano, Jr., Esq.,
Attorneys for Licensee.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on Sunday, September 13, 1970, it sold a case of beer for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Glazer and King, Bulletin 1906, Item 10.

Accordingly, it is, on this 2nd day of November 1970,

ORDERED that Plenary Retail Consumption License C-6, issued by the Mayor and Council of the Borough of Raritan to

DeCicco's Inc., t/a "DeCicco's", for premises 10 Anderson Street, Raritan, be and the same is hereby suspended for ten (10) days, *commencing at 1:00 a.m. Tuesday, November 17, 1970, and terminating at 1:00 a.m. Friday, November 27, 1970.

RICHARD C. McDONOUGH
DIRECTOR

*By order dated November 13, 1970 the suspension was advanced to commence at 1:00 A.M. Sunday, November 22, 1970, and terminate at 1:00 A.M. Wednesday, December 2, 1970.

6. DISCIPLINARY PROCEEDINGS - FRONT - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

D.L.O. Corp.
t/a The Lodge Cocktail Lounge
Route 15, Jefferson Township
RD 1 Lake Hopatcong, N. J.,

for the 1969-70 license period, and

D.L.O. Corp.
t/a M. P.'s Lounge
Route 15, Jefferson Township
RD 3 Wharton, N. J.,

for the 1970-71 license period,

Holder of Plenary Retail Consumption
License C-13, issued by the Township
Committee of the Township of Jefferson.

CONCLUSIONS

and
ORDER

Boris Seeber, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that from October 1, 1969 to April 30, 1970 it farmed out its license to William H. Davis and his wife Marcia Davis, and permitted them to retain all of the profits of the license business upon payment each month of a stipulated amount of money.

It appearing that the situation has been corrected by cancellation of the aforesaid farming-out arrangement, the severance of any interest, directly or indirectly, of the Davises in the license or business conducted thereunder, and the transfer of all the shares of stock from the persons who held them at the time of the farming-out arrangement to other persons, bona fide stockholders, who now conduct the licensed business, the license, in absence of prior record, will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re S.S.M. Corporation, Bulletin 1760, Item 9.

Accordingly, it is, on this 30th day of October 1970,

ORDERED that Plenary Retail Consumption License C-13, issued by the Township Committee of the Township of Jefferson to D.L.O. Corp., t/a M.P.'s Lounge, for premises Route 15, Jefferson Twonship, be and the same is hereby suspended for fifteen (15) days, commencing at 3 a.m. Thursday, November 12, 1970, and terminating at 3 a.m. Friday, November 27, 1970.

RICHARD C. McDONOUGH
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - CANCELLATION OF UNLIMITED SOLICITOR'S PERMIT.

In the Matter of Disciplinary
Proceedings against

George C. Powell
381 Broad Street
Newark, N.J.,

Holder of Unlimited Solicitor's
Permit No. 2670 effective June 1,
1969 through May 31, 1970, and of
Unlimited Solicitor's Permit No.
3110, effective June 1, 1970
through May 31, 1971, issued by the
Director of the Division of Alcoholic
Beverage Control.

CONCLUSIONS
and
ORDER

Permittee, Pro se.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Permittee pleads non vult to charges as follows:

- "1. From on or about December 2, 1968, until the present time, you, the holder of an unlimited solicitor's permit for employment by F & A Distributing Company, a plenary wholesale licensee, were, at the same time, interested, directly or indirectly, in a retail license and in the business conducted thereunder, viz., in successive plenary retail consumption licenses issued to G.E.L.L., Inc. (Corp.) for premises 43-A Branford Place, Newark, N.J.; in violation of Rule 7 of State Regulation No. 14.
- "2. From on or about December 2, 1968, until the present time, you, the holder of an unlimited solicitor's permit for employment by F & A Distributing Company, a plenary wholesale licensee, were, at the same time, employed by or connected in a business capacity with a retail licensee, G. E. L. L., Inc. (Corp.) holder of successive plenary retail consumption licenses for premises 43-A Branford Place, Newark, N.J., in violation of Rule 7 of State Regulation No. 14."

The facts are sufficiently set forth in the charges.

Under date of July 16, 1970, F. & A. Distributing Company notified this Division that the services of permittee had been terminated and permittee, in an affidavit executed the same date, confirms such termination of employment, and further states that on July 1, 1970 he mailed his permit to this Division. A search of Division records fails to disclose receipt of the permit.

All facts considered, including permittee's termination of employment with F. & A. Distributing Company and offer of surrender of his permit, the permit will be cancelled.

Accordingly, it is, on this 2nd day of November 1970,

ORDERED that Unlimited Solicitor's Permit No. 3110, issued by the Director of the Division of Alcoholic Beverage Control to George C. Powell, 381 Broad Street, Newark, N.J., for the period effective June 1, 1970 through May 31, 1971, be and the same is hereby cancelled, effective immediately.

RICHARD C. McDONOUGH
DIRECTOR

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

In the Matter of Disciplinary
Proceedings against

2705 Pacific Corp.
t/a The Haunted House
2705 Pacific Avenue
Atlantic City, N.J.,

Holder of Plenary Retail Consumption
License C-154, issued by the Board
of Commissioners of the City of
Atlantic City.

CONCLUSIONS
and
ORDER

Edwin H. Helfant, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 13, 1970, it sold drinks of alcoholic beverages to two minors, ages 19 and 20, in violation of Rule 1 of State Regulation No. 20.

Licensee has a record of suspension of license by the Director for twenty days, effective August 5, 1970, for employing a person convicted of crime involving moral turpitude, effective date of which was stayed by the Appellate Division on appeal from the Director's Action. Such appeal has now been dismissed by order of the Court entered October 5, 1970 and the twenty-day suspension of license has been reimposed by the Director effective October 27, 1970. Bulletin 1936, Item 4.

This record of suspension disregarded in admeasuring the penalty because imposed subsequent to the occurrence of the violation herein (Re Getcliffe Inc., Bulletin 1911, Item 9), the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Rainbow Room, Inc., Bulletin 1678, Item 4.

Accordingly, it is, on this 2nd day of November 1970,

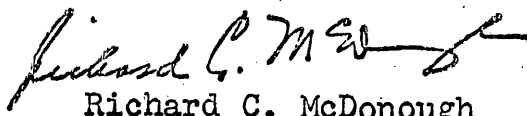
ORDERED that Plenary Retail Consumption License C-154, issued by the Board of Commissioners of the City of Atlantic City to 2705 Pacific Corp., t/a The Haunted House, for premises 2705 Pacific Avenue, Atlantic City, be and the same is hereby suspended for ten (10) days, commencing at 7:00 a.m. Monday, November 16, 1970, and terminating at 7:00 a.m. Thursday, November 26, 1970.

RICHARD C. McDONOUGH
DIRECTOR

9. STATE LICENSES - NEW APPLICATION FILED.

Spring Crest Beverages Inc.
203 Lock Street & Additional space
Phillipsburg, New Jersey

Application filed December 28, 1970 for person-to-person and place-to-place transfer of State Beverage Distributor's License SBD-48 from Erma L. Black, Administratrix of the Estate of William H. Black, t/a Springcrest Beverage Co., 203 Lock Street, Phillipsburg, New Jersey


Richard C. McDonough
Director