

Gossweiler

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

BULLETIN 1501

MARCH 27, 1963

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

BULLETIN 1501

MARCH 27, 1963

1. DISCIPLINARY PROCEEDINGS - AIDING AND ABETTING UNLICENSED SALE - SOLICITOR PURCHASING FOR ALLEGED PERSONAL CONSUMPTION FROM WHOLESALER - UNLAWFUL TRANSPORTATION - PERMIT SUSPENDED 150 DAYS.

In the Matter of Disciplinary Proceedings against )

EDWARD A. BODENWIESER )  
311 North Nassau Avenue )  
Margate, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Solicitor's Permit No. 2712, issued by the Director of the Division of Alcoholic Beverage Control. )  
----- )

Permittee, Pro se.  
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Permittee pleads non vult to charges as follows:

- "1. On divers dated between March 10, 1961 and September 28, 1962, you knowingly aided and abetted your employer, Merchants' Wine & Liquor Company, in the unwitting sale of alcoholic beverages to yourself, a person not a licensed retailer or wholesaler, contrary to and beyond the terms of your employer's license, as defined by R.S. 33:1-11(1), in that you purchased alcoholic beverages from your employer by misrepresenting that the alcoholic beverages had been ordered by a retail licensee; in violation of R.S. 33:1-52.
- "2. On the aforesaid dates, you knowingly purchased, received and procured illicit beverages from your above mentioned employer, a wholesale licensee, in that said alcoholic beverages were sold to you, a person not a licensed retailer or wholesaler, contrary to and beyond the terms of said wholesaler's license, as defined by R.S. 33:1-11(1), and in violation of R.S. 33:1-2; in violation of R.S. 33:1-49.
- "3. On the aforesaid dates, you transported alcoholic beverages not pursuant to and within the terms of a license, or as otherwise expressly authorized under the Alcoholic Beverage Law, contrary to R.S. 33:1-2; in violation of R.S. 33:1-50(a).

Reports of investigation disclose that, during the nineteen-month period covered by the charges, the permittee-

solicitor purchased from his wholesaler-employer in 45 separate transactions a quantity of alcoholic beverages in the total amount of \$5,429.61, "washing" such sales through a retail licensee by whom the merchandise was not ordered nor to whom was it delivered, but to whom it was ostensibly invoiced. Allegedly the alcoholic beverages involved were used for the solicitor's personal consumption, usually for entertaining.

Considering the annual income of this solicitor and normal living expenses, it is extremely doubtful that his expenditure of over \$5,000 for alcoholic beverages for personal consumption or even for entertainment during the period was economically possible. Although it may well be suspected that a substantial quantity of the alcoholic beverages involved may have been sold to consumers or other retailers in default, or used as free goods in promoting business, there is no evidence to establish any of these practices as a fact.

Absent prior record, and considering the plea entered, under all of the circumstances the permit will be suspended for one hundred fifty days. Re DeFebb, Bulletin 1476, Item 1; aff'd DeFebb v. Davis (N.J.App.Div., decided October 24, 1962, not officially reported), reprinted in Bulletin 1482, Item 1.

Accordingly, it is, on this 11th day of February 1963,

ORDERED that Solicitor's Permit No. 2712, issued by the Director of the Division of Alcoholic Beverage Control to Edward A. Bodenwieser, 311 North Nassau Avenue, Margate, be and the same is hereby suspended commencing 9 a.m. Monday, February 18, 1963, for the balance of its term, viz., until midnight May 31, 1963; and it is further

ORDERED that any renewal permit that may be issued shall be and remain under suspension until 9 a.m. Thursday, July 18, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

2. APPELLATE DECISIONS - PASSAIC COUNTY RETAIL LIQUOR STORES ASSOCIATION v. PATERSON and ALLIED STORES CORPORATION.

PASSAIC COUNTY RETAIL LIQUOR STORES ASSOCIATION, )

Appellant, )

v. )

Board of Alcoholic Beverage Control for the City of Paterson, and Allied Stores Corporation, t/a Stern's Quackenbush, )

ON APPEAL

ORDER

Respondents. )

Sellinger & Chester, Esqs., by Robert H. Chester, Esq., Attorneys for Appellant  
Theodore D. Rosenberg, Esq., by William J. Rosenberg, Esq. Attorney for Respondent Board  
Spitz & LaCava, Esqs., Attorneys for Respondent Allied Stores Corporation

BY THE ACTING DIRECTOR:

Appellant appeals from the granting by respondent Board on October 10, 1962, of application of respondent Allied Stores Corp. for person-to-person and place-to-place transfer of plenary retail consumption license from Joseph Kaytes & George Kaytes, t/a Star Club, 838 Market Street, to Allied Stores Corp., 77 Ellison Street, Paterson.

On the date and at the time fixed for hearing, although respondents appeared, no one appeared in behalf of appellant. In response to telephone inquiry of the Hearer with respect to their failure to appear at the hearing, the attorneys for appellant advised that no appearance at the hearing was contemplated and that the appeal was withdrawn. No reason appearing to the contrary,

It is, on this 7th day of February 1963,

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

EMERSON A. TSCHUPP  
ACTING DIRECTOR

3. APPELLATE DECISIONS - RALPH v. NEW SHREWSBURY AND THE SPIRIT SPOT, INC.

GEORGE K. RALPH, )

Appellant, )

v. )

ON APPEAL  
ORDER

MAYOR AND COUNCIL OF THE )  
BOROUGH OF NEW SHREWSBURY, and )  
THE SPIRIT SPOT, INC. )

Respondents. )

-----  
George K. Ralph, Pro se.  
No Appearances for Respondents

BY THE ACTING DIRECTOR:

Appellant appeals from the granting by respondent Mayor and Council of place-to-place transfer of plenary retail consumption license issued to respondent The Spirit Spot, Inc., from premises 1211 Sycamore Avenue to premises 1202 Sycamore Avenue, subject to certain special conditions.

By letter dated February 10, 1963, appellant advised that he was withdrawing the appeal. No reason appearing to the contrary,

It is, on this 13th day of February 1963,

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

EMERSON A. TSCHUPP  
ACTING DIRECTOR

- 4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 AND MUNICIPAL HOURS ORDINANCE - SALE OFF LICENSED PREMISES - HINDERING INVESTIGATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 70 DAYS.

In the Matter of Disciplinary Proceedings against )

BLACK'S BRASS RAIL, INC. )  
 93 Frelinghuysen Avenue )  
 Newark 8, New Jersey )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-343, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )

-----  
 Brass, Litvak & Ertag, Esqs., by Jerome B. Litvak, Esq., Attorneys for Licensee.  
 David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"The licensee pleaded not guilty to the following charges:

1. On Sunday, August 5, 1962, you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, at retail, in their original containers for consumption off your licensed premises and you allowed, permitted and suffered the removal of such alcoholic beverages from your retail licensed premises; in violation of Rule 1 of State Regulation No. 38.
2. On Sunday, August 5, 1962, between the hours of 10:15 a.m. and 12:00 noon, you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages and you failed to have your entire licensed premises closed during said hours; in violation of Section 3.1 of the Revised Ordinances of the City of Newark, adopted October 15, 1952, as amended December 5, 1956.
3. On August 5, 1962, between the hours of 10:15 a.m. and 12:00 noon, you sold alcoholic beverages not pursuant to and within the terms of your plenary retail consumption license, as defined by R.S. 33:1-12(1), contrary to R.S. 33:1-26, in that you accepted orders for and sold various kinds of alcoholic beverages at a place other than your licensed premises, viz., on the public sidewalk and street adjacent to your licensed premises; in violation of R.S. 33:1-2.
4. On August 5, 1962, you failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation, examination and inspection being conducted by an Inspector and Investigator of this Division and you did attempt to hinder and delay and cause the hindrance and delay of such investigation, examination and

inspection by urging, suggesting and counselling said Division officers to make false and untruthful reports of their investigation to show that the hereinbefore listed violations had not in fact occurred and by offering to give money to said officers to make and file such false and untruthful reports; in violation of R.S. 33:1-35.

"To substantiate the charges the Division produced ABC Agents D and S who participated in the investigation of the licensed business.

"Succinctly stated, their testimony is as follows: At 10:15 a.m. Sunday, August 5, 1962, they arrived in the vicinity of the licensed premises which is located on the corner of Frelinghuysen Avenue and Poinier Street, and parked their car in a driveway across the street from the side entrance on Poinier Street. While seated in the vehicle they observed several males approach the side door, open it and engage in some sort of transaction with a person inside who was later identified as Philip Black (hereafter Phil), president of the corporate licensee. To get a better view of what was occurring, Agent D took a position on the same side of the street as the side entrance of the premises and about seventy-five feet therefrom, and Agent S proceeded to the corner of Sherman Avenue on the opposite side. From their vantage points they saw bottles passed to males through a window adjacent to a side entrance and observed some of the males adjust something in their belts and saw others putting some things in their coats and pants pockets. At 10:45 a.m., when a police car drove by the premises, the males dispersed and Phil came outside and stood on the sidewalk. Shortly thereafter an individual, later identified as George Black (hereafter George), secretary and treasurer of the corporate licensee and brother of Phil, arrived and entered the premises. At 11:05 a.m. two men, later identified as Uless Stevens (hereafter Stevens) and William Foster (hereafter Foster) drove up to the side entrance and Phil, in a loud voice, asked 'What do you want.' Foster handed something to Phil, who motioned the two men to back up their car nearer the corner. Phil entered the premises, emerged therefrom with something in a brown paper bag, walked to Stevens' car and handed the package to Foster. Stevens and Foster then drove in the direction of Agent D who stopped them and, when he and Agent S had identified themselves, Agent D asked for the bottle that Stevens had bought and, after a brief conversation, Stevens handed over a bag containing an unopened pint bottle of Seagram's 7 whiskey. In the meantime Agent S left to call the police, and shortly thereafter rejoined Agent D. Stevens and Foster then accompanied the agents to the licensed premises and, as they approached, Phil yelled to his brother 'Hey, Black, there is trouble, there is trouble. The law.' The agents made their identities known and entered the premises together with Phil, Stevens and Foster and, when they told both Phil and George what they had observed, they were told to get out, that they were liars, that they had seen nothing and that they had no right to be there without a search warrant. George then directed Stevens and Foster to sit at the bar and stood between them and the agents, yelling 'Tell them you bought the bottle last night.' He further refused to permit Agent S to go behind the bar, saying 'I don't care who you are or what you are, you are not going behind the bar. You are not getting the register tape and you are not searching the premises without a warrant.' He also refused to show the copy of the current license application. In the meantime the police

arrived and sought to assist the agents, who told them that it was the duty of the licensee or its agents to cooperate with them without compulsion. The police, the agents, Stevens and Foster then left the premises and, while Agent S was talking to a police sergeant, George said to Agent D 'Can't we straighten this out? Can't we make a deal?' and offered him \$100 to forget about the incident. Agent D called to Agent S who joined him, and George said 'There must be some deal or way we can straighten this out. Let's get together on it' and, when told there was no way to help him, George said 'Look, do you always make a grab on your first visit? Why don't you go back to the office and forget about it and make out a report that nothing happened and come back next week and make out another. You know, there is nothing here. You can always make another report stating this.' When informed that he could be charged with bribery, George stated that he realized that the agents were married and that he was not trying to bribe them but was just trying to make life a little easier for them, specifying a couple of hundred dollars for each of them. When the agents got in their car, George held on to the door, asking 'What are you afraid of? I'm not going to tell anybody', and, when told again that he would be charged with bribery, he then stated that he didn't care, they could do what they wanted, that it was his word against theirs, and that he knew the law. At this point the agents departed.

"The paper bag and the bottle of whiskey (Exhibit S-1), a certified copy of the pertinent ordinance of the City of Newark (Exhibit S-2) and a certified copy of the licensee's current license application (Exhibit S-3) were received in evidence without objection, and the Division rested. When the case was resumed at a later date the licensee's attorney moved to suppress Exhibit S-1 on the ground that the evidence was illegally seized. Decision on the motion was reserved, and the licensee proceeded with its defense.

"Appearing on behalf of the licensee were Herbert Killiebrew (the licensee's night bartender), Foster, Stevens, George and Philip Black.

"Killiebrew testified that he has worked for the licensee for fifteen years; that on Saturday night, August 4, 1962, he sold a pint bottle of Seagram's 7 whiskey to Stevens, and that he didn't know Foster.

"Foster testified substantially as follows: On Sunday morning, August 5, 1962, he accepted an invitation to drive with Stevens (a night watchman) to the site of his job, about one block from Black's, and that, when they were returning therefrom, they proceeded up Poinier Street past the licensed premises, and were stopped by Agent D who asked if Black sold beer. When Stevens replied that he didn't know, Agent D told him that he had been working and was tired, and Stevens said 'I know how you feel, you've been working. I'll give you a little shot if you want one' and took a paper bag containing a pint of Seagram's 7 whiskey from under the seat. Agent D and Agent S who appeared on the scene identified themselves, and Agent D seized the bag and the bottle of whiskey and asked him and Stevens to accompany them to Black's premises. Stevens kept repeating 'Give me back the bottle, I bought that Saturday night.' Foster further testified that the first time he saw the bottle and bag was when Stevens offered the agents a drink and that, when they entered the licensed premises and Agent S told Black that he had seen him hand the bottle to him (Foster), Black said 'No, you didn't.' Thereafter the 'cops' came and cooled things off and everyone left the premises.

"The testimony of Stevens substantially corroborates that of Foster. His testimony further shows that on Saturday night, August 4, he brought to his job in a bag two sandwiches, one of which he later ate with a glass of beer in Black's establishment; that, when he was leaving, he purchased a pint of Seagram's 7 which he put in the bag with the other sandwich and returned to work; that later that night he ate the other sandwich and put the bag containing the bottle of whiskey under the seat of his car; that it remained there until he offered a drink to the agent, and that he didn't stop his car at Black's on Sunday morning.

"George testified in substance that, when the agents approached the side entrance, Phil asked 'Who is that?' and the gentlemen said 'We are ABC men.' Phil opened the door and, when they, Stevens and Foster entered, he asked 'What is this all about? What's this confusion about?' When informed that he had sold Stevens a bottle of whiskey, he said 'We just came in here. We are not in here three minutes.' Agent S then went to the phone and called the police and, when they arrived, they quieted Stevens who was demanding his bottle of whiskey. When the police left, he said to the agents 'It's not right for you to bring a man back here with a pint of whiskey that he claims he bought here this morning and we are closed. It's not fair for you to do this, it's not proper.' He denied that he interfered with the agents or offered them money, and stated that the people whom the agents observed walking past the tavern were on their way to church, which is a block away, and that the reason the agents were not permitted to go behind the bar was because he didn't know the law.

"Phil's testimony substantially corroborates that of his brother George.

"Respecting the licensee's motion to suppress Exhibit S-1, it will suffice to quote the language of Judge Foley in State v. Doyle, 77 N.J. Super., at p. 344 (decided December 4, 1962) wherein he states:

'\*\*\* in order to qualify as a person aggrieved by an unlawful search or seizure under the Fourth Amendment one must have been the victim of the search or seizure -- one against whom the search was directed -- as distinguished from one who claims prejudice only through the use of evidence gathered as a consequence of a search or seizure directed at someone else. Jones v. United States, 362 U.S. 257, 261, 80 S. Ct. 725, 4 L. Ed. 2d 697 (1960).'

"I recommend, therefore, that the motion to suppress be denied.

"Considering the evidence adduced herein, and having had the opportunity to judge the credibility of the witnesses and recognizing the sharp dispute of facts, I find that the agents' version of what occurred on the date alleged is highly credible and that it remained unshaken notwithstanding the exhaustive cross examination to which the agents were subjected. On the contrary, I cannot, under the circumstances, give any credence to the unlikely occurrences testified to by the licensee's witnesses. I conclude, therefore, that the Division has established the truth of the charges by a fair preponderance of the believable evidence, and I further recommend that the licensee be found guilty as charged.

"The licensee has no prior adjudicated record. However, when Philip Black (president and 98% stockholder of the corporate licensee herein) held a license for premises 203 West Kinney Street, Newark, it was suspended on three occasions for violating State Regulation No. 38, viz., for ten days by the local issuing authority, effective March 4, 1946; for twenty days by the Division, effective February 3, 1953 (Bulletin 965, Item 5) and for fifteen days by the local issuing authority, effective October 6, 1958.

"The prior record of the similar violation which occurred more than ten years ago should be disregarded. However, since the prior similar violations occurred within the past five and ten years, it is recommended that the license be suspended on Charges 1 and 2 for forty days (cf. Re Page, Bulletin 1454, Item 4; Re Delbono, Bulletin 1461, Item 1); on Charge 3 for ten days (Re Fiola, Bulletin 1445, Item 1) and on Charge 4 for twenty days (Re Straus, Bulletin 1452, Item 3), making a total suspension of seventy days."

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

Having carefully considered the record herein, including the transcripts of the testimony, the exhibits, the oral argument in support of the licensee's motion to suppress Exhibit S-1, and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 11th day of February 1963,

ORDERED that Plenary Retail Consumption License C-343, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Black's Brass Rail, Inc., for premises 93 Frelinghuysen Avenue, Newark, be and the same is hereby suspended for seventy (70) days, commencing at 2 a.m. Monday, February 18, 1963, and terminating at 2 a.m. Monday, April 29, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

5. DISCIPLINARY PROCEEDINGS - FEMALE IMPERSONATOR - INDECENT ENTERTAINMENT - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary Proceedings against )

UNCLE MILTY'S, INC. )  
t/a UNCLE MILTY'S )  
7304 River Road )  
Pennsauken Township )  
PO Delair, N. J. )

CONCLUSIONS AND ORDER

1

Holder of Plenary Retail Consumption License C-11, issued by the Township Committee of Pennsauken Township )

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Licensee, by Milton Arbittier, President, Pro se.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"Licensee pleaded not guilty to the following charges:

- '1. On November 16, 1962, you allowed, permitted and suffered a female impersonator in and upon your licensed premises; in violation of Rule 4 of State Regulation No. 20.
- '2. On November 16, 1962, 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 the above mentioned female impersonator 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.'

"On motion of the Division's attorney and consented to by the licensee, the dates in the foregoing charges were amended to read November 17, 1962 instead of November 16, 1962.

"To substantiate the charges, the Division called as its witnesses two ABC agents (hereinafter referred to as Agent D and Agent S).

"Agent D testified that the licensed premises consist of a barroom and a supper club area; that the latter occupies about three-fourths of the premises, is located about three feet below the level of the barroom with steps leading to the same, is also reached by a direct entrance from the street and contains a stage in front of and around which are a number of tables and chairs.

"Agent D further testified that on November 17, 1962 at about 8:30 p.m., he and Agent S entered the licensed premises and took seats at the bar which was being tended by three barmaids; that he commanded a full and unobstructed view of the club area, including its well illuminated stage; that there were about 150 male and female patrons in the premises; that at about 10:45 p.m.

this number increased to a capacity crowd of about 350, most of whom were seated at the tables in the club area; that between 8:30 and 10:45 p.m. entertainment was provided by various performers, a band of music and by Si White, the master of ceremonies.

"Agent D further testified that at about 10:45 p.m. White introduced 'Miss' Rickey Roberts (later identified as Lloyd Black) as the final act of the night; that Black came on the stage wearing heavy female make-up, a long blond wig, earrings, a two-piece full length sheath dress with ruffles at the bottom, a fur stole, mesh gloves extending over the elbows, mesh stockings and high heeled shoes; that Black danced slowly about the stage in an effeminate manner; that while dancing, he first removed the fur piece and then the upper part of his dress thereby revealing two protruding triangular patches (a bra) over his breasts simulating the breasts of a female; that Black continued his act with movements of his 'falsies' and by discarding the lower part of his dress, following which Black appeared before the patrons wearing full length stockings and female panties partially covered by two transparent panels (affixed to a waistband) one of which hung over his buttocks and the other over his crotch; that Black continued his performance by punctuating his dance with few 'bumps' and by shedding his waistband and panels, which left him attired in his wig, bra, panties, stockings and high heeled shoes; that Black next stood with his back to the audience and executed a dance known as the 'Freeze' and the 'Jelly Dance' (rotating his buttocks first separately then together); that at this point Black went off stage; that the audience cheered and loudly applauded and Black was brought back for an encore; that Black danced a few more steps, turned his back to the crowd, untied his bra with feminine technique and, as a finale, faced the audience with his chest exposed, simultaneously therewith removing his wig and sticking out his tongue.

"Agent D further testified that immediately after Black's performance, he and Agent S identified themselves to Milton Arbittier, president of the corporate licensee, and informed him of the alleged violations; that Mr. Arbittier stated for the past one-and-one-half years he has employed Black on the licensed premises, that he did not deny that Black was impersonating a female stripper, that he was aware from the outset that Black was a female impersonator and that he did not know that Black's performance constituted a violation of the rules and regulations of the Division; that he and Agent S, followed by Mr. Arbittier, proceeded to a dressing room, identified themselves to 'Miss' Rickey Roberts and learned his true name to be Lloyd Black; and that Mr. Arbittier informed Black that his contract was cancelled.

"Agent S was called to testify and it was stipulated by the litigants that, if examined, his testimony on direct and cross examination would substantially corroborate the testimony of Agent D.

"Milton Arbittier, on behalf of the licensee, denied that Black's performance was lewd, indecent and immoral, denied that Black executed the 'bumps' and further testified that he is a produce merchant; that he has operated the licensed business for two years; that for the past one-and-one-half years Black has performed his act at the premises without a single complaint from any source; that he never intended to permit any immoral activities on the premises; that 'I hired Rickey Roberts as I knew him a year and a half or so ago, not as a female impersonator

but as an act'; that a sign in the performers' dressing room reads 'Every act must be kept clean'; that his menus bear the inscription 'Uncle Milty says: Please don't drink too much. Just enough to relax and enjoy yourself'; and that he did not know it was a violation of the rules of the Division to permit a male dressed as a female to visit the licensed premises.

"On cross examination, Mr. Arbittier testified that Black, except for the bumps, performed substantially as testified by the agents and that Black did not perform as a 'female stripper with the bumps and the rolls or whatever that goes with it'.

"By way of mitigation, Mr. Arbittier has submitted a statement substantially reiterating his testimony at the hearing.

"The licensee does not deny the factual allegation of the first charge herein but seeks to be absolved of guilt on the ground that it was not familiar with the particular rule in question. However, ignorance of the law or regulation does not afford an excuse to the licensee. Re Restivo, Bulletin 1480, Item 2. Moreover, licensees and their employees must know the rules and scrupulously adhere to them. Re Restivo, supra.

"As to the second charge, despite the protestations of the licensee, I find as a fact from the testimony of the agents that on November 17, 1962 the licensee permitted a female impersonator to perform on its licensed premises in an indecent and immoral manner. Immoral activities of the above nature will not be countenanced upon licensed premises, irrespective of the length of time that the licensee has held a license or his financial investment in the licensed business. Cf. Re Four Corners Bar, Bulletin 1475, Item 3.

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

"The licensee has no prior adjudicated record. The minimum suspensions imposed for the violations set forth in Charges 1 and 2 are sixty and thirty days, respectively. Re Andy's New Log Cabin, Inc., Bulletin 1496, Item 3. Cf. Re Sansone & Palmieri, Bulletin 794, Item 10. It is further recommended, therefore, that an order be entered suspending the license for a total of ninety days on both charges herein."

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

Having carefully considered the record herein, including the transcript of the proceedings, the exhibits, the memorandum filed with the Hearer by the licensee, and the Hearer's Report, I concur in the findings and conclusion of the Hearer and adopt his recommendation. Hence, I find the licensee guilty as charged.

Accordingly, it is, on this 6th day of February 1963,

ORDERED that Plenary Retail Consumption License C-11, issued by the Township Committee of Pennsauken Township to Uncle Milty's, Inc., t/a Uncle Milty's, for premises 7304 River Road, Pennsauken Township, be and the same is hereby suspended for ninety (90) days, commencing at 2 a.m. Wednesday, February 13, 1963, and terminating at 2 a.m. Tuesday, May 14, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ORDER DEFERRING EFFECTIVE DATE OF SUSPENSION.

In the Matter of Disciplinary Proceedings against )

UNCLE MILTY'S, INC. )  
t/a UNCLE MILTY'S )  
7304 River Road )  
Pennsauken Township )  
PO Delair, N. J. )

AMENDED  
ORDER

Holder of Plenary Retail Consumption License C-11, issued by the Township Committee of Pennsauken Township. )

-----  
Licensee, by Milton Arbittier, President, Pro se.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

On February 6, 1963, I entered an order suspending the license herein for ninety days commencing February 13, 1963. Re Uncle Milty's, Inc., Bulletin 1501, Item 5.

Licensee has filed a petition requesting that the imposition of the suspension be deferred until June 14, 1963, and, for good cause appearing, I shall grant such petition.

Accordingly, it is, on this 11th day of February 1963,

ORDERED that the previous order of suspension herein is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-11, issued by the Township Committee of Pennsauken Township to Uncle Milty's, Inc., t/a Uncle Milty's, for premises 7304 River Road, Pennsauken Township, be and the same is hereby suspended commencing at 2 a.m. Friday, June 14, 1963, for the balance of its term, viz., until midnight June 30, 1963; and it is further

ORDERED that any renewal license that may be granted shall be and remain under suspension until 2 a.m. Thursday, September 12, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

7.

ACTIVITY REPORT FOR FEBRUARY 1963

<b>ARRESTS:</b>		
Total number of persons arrested	- - - - -	11
Licensees and employees	- - - - - 7	
Bootleggers	- - - - - 4	
<b>SEIZURES:</b>		
Distilled alcoholic beverages - gallons	- - - - -	1.420
Wine - gallons	- - - - -	3.875
Brewed malt alcoholic beverages - gallons	- - - - -	.845
<b>RETAIL LICENSEES:</b>		
Premises inspected	- - - - -	896
Premises where alcoholic beverages were gauged	- - - - -	555
Bottles gauged	- - - - -	8,286
Premises where violations were found	- - - - -	144
Violations found	- - - - -	169
Reg. #38 sign not posted	- - - - - 48	Prohibited signs - - - - - 7
Application copy not available	- - - - - 40	Improper beer taps - - - - - 1
Unqualified employees	- - - - - 35	Disposal permit necessary - - - - - 1
Other mercantile business	- - - - - 11	Other violations - - - - - 26
<b>STATE LICENSEES:</b>		
Premises inspected	- - - - -	41
License applications investigated	- - - - -	6
<b>COMPLAINTS:</b>		
Complaints assigned for investigation	- - - - -	399
Investigations completed	- - - - -	363
Investigations pending	- - - - -	213
<b>LABORATORY:</b>		
Analyses made	- - - - -	108
Refills from licensed premises - bottles	- - - - -	69
Bottles from unlicensed premises	- - - - -	7
<b>IDENTIFICATION:</b>		
Criminal fingerprint identifications made	- - - - -	4
Persons fingerprinted for non-criminal purposes	- - - - -	177
Identification contacts made with other enforcement agencies	- - - - -	136
Motor vehicle identifications via N.J. State Police Teletype	- - - - -	1
<b>DISCIPLINARY PROCEEDINGS:</b>		
Cases transmitted to municipalities	- - - - -	5
Violations involved	- - - - -	5
Sale during prohibited hours	- - - - - 3	Sale to minors
		2
Cases instituted at Division	- - - - -	23
Violations involved	- - - - -	25
Possessing liquor not truly labeled	- - - - - 6	Sale to non-members by club
		1
Sale during prohibited hours	- - - - - 5	Unqualified employee
		1
Sale to minors	- - - - - 4	Fraud in application
		1
Sale below filed price	- - - - - 2	Permitting bookmaking on premises
		1
Beverage Tax Law non-compliance	- - - - - 1	Sale beyond scope of license
		1
Permitting lottery activity (numbers)	- - - - - 1	Sale by minor permittee in violation of
on premises	- - - - - 1	special condition
		1
Cases brought by municipalities on own initiative and reported to Division	- - - - -	14
Violations involved	- - - - -	15
Sale to minors	- - - - - 10	Permitting brawl on premises
		2
Sale during prohibited hours	- - - - - 2	Failure to close prem. during proh. hours
		1
<b>HEARINGS HELD AT DIVISION:</b>		
Total number of hearings held	- - - - -	31
Appeals	- - - - - 5	Eligibility
		2
Disciplinary proceedings	- - - - - 21	Seizures
		2
<b>STATE LICENSES AND PERMITS ISSUED:</b>		
Total number issued	- - - - -	921
Licensees	- - - - - 1	Wine permits
		1
Solicitors' permits	- - - - - 26	Miscellaneous permits
		105
Employment permits	- - - - - 180	Transit insignia
		150
Disposal permits	- - - - - 65	Transit certificates
		24
Social affair permits	- - - - - 369	
<b>OFFICE OF AMUSEMENT GAMES CONTROL:</b>		
Licenses issued	- - - - - 69	

Emerson A. Tschupp  
 Acting Director of Alcoholic Beverage Control  
 Acting Commissioner of Amusement Games Control

Dated: March 5, 1963

8. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS) - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

AUGIE'S TAVERN, INC. )  
640 - 61st Street )  
West New York, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-30, issued by the Board of Commissioners of the City of West New York. )

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Licensee, by August J. Orlando, President, Pro se.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads guilty to charges (1) and (2) alleging that on December 27 and 28, 1962, and on January 9, 1963, it permitted the acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for thirty-five days, effective July 22, 1956, for local and State "hours" violation, and possessing lottery tickets and participation rights, in violation of Rule 6 of State Regulation No. 20.

The prior record of dissimilar violation more than five years ago disregarded, but considering the record of similar violation more than five but less than ten years ago, the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Waldron, Inc., Bulletin 1434, Item 4.

Accordingly, it is, on this 18th day of February 1963,

ORDERED that Plenary Retail Consumption License C-30, issued by the Board of Commissioners of the City of West New York to Augie's Tavern, Inc., for premises 640 - 61st Street, West New York, be and the same is hereby suspended for twenty-five (25) days, commencing at 3 a.m. Monday, February 25, 1963, and terminating at 3 a.m. Friday, March 22, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY  
LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

ANTOINETTE GUADAGNO )  
(Adm. Est. of Herman Guadagno) )  
t/a Herman's Tavern )  
7-9 Cary Street )  
West Orange, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-19, issued by the Town )  
Council of the Town of West Orange. )

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Friedman & D'Alessandro, Esqs., by Edward G. D'Alessandro, Esq.,  
Attorneys for Licensee.  
David S. Piltzer, Esq., Appearing for Division of Alcoholic  
Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on  
November 14, 1962, she possessed an alcoholic beverage in one  
bottle bearing a label which did not truly describe its contents,  
in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended  
for ten days, with remission of five days for the plea entered,  
leaving a net suspension of five days. Re Falciani, Bulletin  
1492, Item 10.

Accordingly, it is, on this 18th day of February 1963,

ORDERED that Plenary Retail Consumption License C-19,  
issued by the Town Council of the Town of West Orange to  
Antoinette Guadagno (Adm. Est. of Herman Guadagno), t/a Herman's  
Tavern, for premises 7-9 Cary Street, West Orange, be and the same  
is hereby suspended for five (5) days, commencing at 2 a.m. Monday,  
February 25, 1963, and terminating at 2 a.m. Saturday, March  
2, 1963.

  
Emerson A. Tschupp  
Acting Director