

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

BULLETIN 1393

July 26, 1961

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July 26, 1961

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(MAKING ARRANGEMENTS FOR ILLICIT SEXUAL INTERCOURSE) -
INDECENT LANGUAGE AND CONDUCT - NUISANCE - FALSE ANSWER IN
APPLICATION - PRIOR RECORD - LICENSE SUSPENDED FOR 140 DAYS.

In the Matter of Disciplinary)
Proceedings against)

LEONARD COSTANZO)
111-1/2 Hudson Street)
Hoboken, N.J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-48, issued by the Board of)
Alcoholic Beverage Control of the)
City of Hoboken.)

Krivit & Krivit, Esqs., by Maurice M. Krivit, Esq., Attorneys
for Defendant-licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On January 12 and 17, 1961, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of overtures and arrangements for illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20.
- "2. On January 12 and 17, 1961, you allowed, permitted and suffered foul, filthy and obscene language and conduct in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20.
- "3. On January 12 and 17, 1961, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered unescorted females frequenting your licensed premises to solicit male patrons, directly or indirectly, to purchase numerous drinks of alcoholic beverages for consumption by them and others and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.
- "4. In your application filed with the Board of Alcoholic Beverage Control in the City of Hoboken, and upon which you obtained your current plenary retail consumption license, you falsely stated 'No' in answer to Question No. 41 which asks: 'Have you or has any person mentioned in this application ever had any interest, directly or indirectly, in any alcoholic beverage license or permit in New Jersey or any other state which was surrendered, suspended, revoked or cancelled?', whereas in truth

and fact plenary retail consumption license held by you for these same premises effective July 1, 1958 for the 1958-59 period, was suspended by the Director of the Division of Alcoholic Beverage Control for twenty-five (25) days commencing October 27, 1958 for service of alcoholic beverages to persons actually or apparently intoxicated and for permitting indecent language on the licensed premises, both contrary to state regulations; said false answer being in violation of R.S. 33:1-25."

From the Division's file herein the following appears:

On January 12, 1961, three ABC agents entered the licensed premises at about 2 p.m. and noted that the bartender (Pasquale J. Yaccarino) was soliciting drinks from an unidentified male patron for himself and a female named Pauline. Pauline then engaged agents in conversation and the bartender served her drinks, taking payment from money of agents without first asking their permission.

Pauline then left the bar to sit with another patron at a table. The bartender promptly ordered her to return to the bar and sit with agents, which she did. Pauline then told agents that she engages in sexual intercourse for sums ranging from \$5 to \$100, and detailed her experiences in filthy and obscene language. This conversation took place in the presence of Yaccarino, and Leonard Costanzo (the licensee) who participated in and apparently enjoyed Pauline's narrative.

On January 17, 1961, one of the aforesaid ABC agents re-entered the licensed premises at 11:45 a.m. and seated himself at the bar, while other agents remained outside. At 12:10 p.m. Pauline came from the premises; accosted the agents who had remained outside: said "Well, you're going to buy me a drink, aren't you" and then followed them into the licensed premises. She was then served a number of drinks at the agents' expense by the bartender Yaccarino and a barmaid who substituted for a short period of time.

During the entire period while she was in the premises, Pauline, in a loud voice, in the presence of the bartender and John Costanzo (the brother of the licensee), described in filthy, lascivious and gutter-type language her sexual experiences, a recital of which would serve no useful purpose. However, she punctuated her remarks by grabbing one of the agents by his privates, and continued to solicit the agents for drinks. Although the bartender was standing near the agents when this indecent activity transpired, he made no attempt to stop her; indeed, he seemed to enjoy her actions and behavior.

Agent R then asked Pauline "Where would you take a man to lay him", to which she replied "I don't care, anywhere. I've been in all these hotels around here with men." In the meantime the licensee called the agent over to him and said "Bernie, move in on that girl down there -- she's a live one", gesticulating at the same time with a pumping motion of his hand, which indicates sexual intercourse. The agent returned to the bar where he resumed his conversations with Pauline. She told the agents that she needed \$13 to pay her room rent. An agent gave her \$10 in two five-dollar bills, the serial numbers of which had previously been recorded by agents. She handed the bills to the bartender with instructions to "put this money in your pocket for me until I get back." The bartender then said to Pauline "You take care of these guys. They're my friends." He then took the marked bills and put them in his shirt pocket.

Agent R left the premises with Pauline, and she insisted

that he give her an additional \$5. because she needed it for her room rent. This was done with a marked five-dollar bill in the view of two local police officers who then stopped them, questioned Pauline and placed her under arrest. The officers, accompanied by Pauline and the agent, returned to the licensed premises where they interrogated the licensee and the bartender. Both men disclaimed any knowledge of Pauline's activities relating to her soliciting for drinks and immoral purposes. A search of the premises produced the two marked five-dollar bills which were secreted in the corner of the bar.

The above facts as they relate to Pauline were thereafter volunteered by her in a signed, sworn statement which she gave to the local police. The licensee and bartender were taken into custody, arraigned in the Hoboken Municipal Court on charges of aiding and abetting prostitution in violation of R.S. 2A:133-2, and released in bail for action by the Hudson County Grand Jury.

Defendant has a prior adjudicated record. Effective October 27, 1958, his license was suspended by this Division for twenty-five days for (1) the sale of alcoholic beverages to intoxicated persons, and (2) permitting foul language on the licensed premises, both contrary to State Regulations. Bulletin 1250, Item 5. Nevertheless, in his application filed with the Board of Alcoholic Beverage Control of the City of Hoboken, upon which he obtained his current plenary retail consumption license, he falsely answered "No" in answer to Question 41 therein which asks: "Have you or has any person mentioned in this application ever had any interest, directly or indirectly, in any alcoholic beverage license or permit in New Jersey or any other state which was surrendered, suspended, revoked or cancelled?". This false answer was violative of R.S. 33:1-25.

It appears that this licensee does not have the prerequisite understanding of the nature, obligation and responsibilities of those entrusted with the conduct of licensed premises. It has been consistently held that solicitation for immoral purposes and the making of arrangements for illicit sexual relations cannot and will not be tolerated on licensed premises. The public is entitled to be protected from these dangerous and sordid evils. The conduct of the licensee herein is clearly inconsistent with rectitude and the standards of conscience and good morals. Cf. In re Schneider, 12 N.J. Super. 449 (App. Div. 1951); In re 17 Club, Inc., 26 N.J. Super. 43 (App. Div. 1953); Re Club Windsor, Inc., Bulletin 1378, Item 5.

Were it established that the bartender or licensee had actually procured Pauline to engage in sexual relations with the agent, defendant's license would be revoked. Re Merjack Corporation, Bulletin 998, Item 1. Under the circumstances of this case, I shall suspend defendant's license for one hundred days on Charge 1, Re Mundo Tavern, Inc., Bulletin 1341, Item 3, and, considering the prior suspension, for an additional thirty days on Charges 2 and 3, cf. Re Przybylowski & Johnson, Bulletin 1238, Item 4, and for an additional ten days on Charge 4, Re Mitchell, Bulletin 1248, Item 3, making a total suspension of one hundred forty days.

Accordingly, it is, on this 25th day of April 1961,

ORDERED that plenary retail consumption license C-48, issued by the Board of Alcoholic Beverage Control of the City of Hoboken to Leonard Costanzo, for premises 111-1/2 Hudson Street, Hoboken, be and the same is hereby suspended for the balance of its term, commencing at 2 a.m. Monday, May 8, 1961; and it is further

ORDERED that any renewal for the 1961-62 licensing year, or transfer of said license, shall be and remain under suspension until 2 a.m. Monday, September 25, 1961.

WILLIAM HOWE DAVIS.
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AS A NUISANCE - FEMALE IMPERSONATORS - SALE TO INTOXICATED PERSON - LICENSE SUSPENDED FOR 55 DAYS.

In the Matter of Disciplinary Proceedings against)

EFCHARIS CARELIS)
T/A HOLLYWOOD CAFE)
49-53 W. BROADWAY)
Paterson 1, N.J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-268, issued by the Board of Alcoholic Beverage Control for the City of Paterson)

-----)
Segreto & Segreto, Esqs., by James V. Segreto, Esq.,
Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant has pleaded not guilty to the following charges:

- '1. On August 13, 18, 19 and 21, 1960, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered thereon persons who appeared to be homosexuals, viz., females impersonating males, and you allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and you otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.
- '2. On August 21, 1960, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person actually or apparently intoxicated, and you 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.'

"Four of the Division's agents participated in the investigation leading to the proceedings herein. In the testimony and comment hereinafter set forth the full names of the agents will not

be used but, instead, just the initials 'G', 'M', 'S' and 'R'. Two agents, 'M' and 'R' testified that they visited the defendant's licensed premises on all of the dates mentioned in the charges and 'G' and 'S' testified that their only visit was on August 21, 1960.

"The testimony of the agents as to their visit on August 21st with especial reference to Charge 1 is in substantial agreement and may be summarized as follows: that of the fifty patrons (16 or 18 of whom were females) in defendant's licensed premises at one time during the morning in question, at least 8 to 11 were attired in male-type shirts with the top button unbuttoned or some had sweatshirts, many wore tight fitting trousers, one of whom wore dungarees, some of the trousers worn had zipper-fly fronts, 'thick' belts with large buckles, oxford type loafers and tennis shoes. These females according to the testimony of the agents wore no make-up, had short cropped haircuts combed straight back, held cigarettes in the side of their mouths and flicked the ashes therefrom like males. They would gulp a shot of whiskey in one drink, walked with a heavy gait and on one occasion when two of the described females came from the ladies' room they were heard to use filthy language.

"The testimony of Agent M was that on his previous visits to defendant's premises on August 13 and 18, 1960 he observed females dressed similar to those described by the agents on the August 21st visit. On the first visit there were 45 patrons present of which 20 were females and 6 of whom attracted his attention. On the August 18th visit there were 25 patrons present consisting of 12 females 7 of whom attracted his attention for the reasons aforementioned.

"On the visit of August 21st Agent G testified that he observed a male patron stagger from the direction of the rest rooms, bump into a stool and then bump against him and in a slurred manner of speaking the man offered to buy him a drink; that a man (referred to as a 'bouncer' by the defendant) employed on the licensed premises told the man that he had had enough to drink and instructed the bartender not to serve any more drinks to him; that thereafter the bartender opened two bottles of beer which he served to the man; that the latter took one of these bottles and, as he walked away Agent G followed him; that he (Agent G) noticed the man walked in a zig-zag manner and 'bumped' into people who were seated at the bar; that the man proceeded to the section of the bar where the defendant was seated, placed the bottle of beer on the bar and gestured in front of the defendant to indicate a desire to dance with her; that as the other agents entered, he (Agent G) seized the bottle of beer purchased by the man and the agents then identified themselves to the defendant; that he (Agent G) informed her of the sale of beer to the man who appeared to him to be intoxicated and she said 'I told my bouncer to kick him out'; that defendant was asked to go with the agents to the back room where upon request of Agent M the man walked a line 'with a little difficulty'; that a male representing himself as the husband of the defendant requested that he (Agent G) explain what the alleged violations were and when he stated them to be a sale of alcoholic beverages to an apparently intoxicated person and that the place was a 'hangout' for apparent lesbians; the defendant overheard and shouted 'How can you say that they're lesbians and how can you say that I'm a lesbian?'

"Agents M, R and S testified that they had seen the man in question in defendant's licensed premises and as a result of their observations they were of the opinion that he was apparently intoxicated.

"The attorney for the defendant conducted extensive cross examination of the agents without any material variations in the

pertinent testimony brought out on direct examination.

"Defendant testified that the females (referred to by her as 'those kids') whom the agents described, although not her regular customers, have been coming into her establishment since another licensed premises in the neighborhood closed. She further testified that at no time have they deported themselves in any manner which could be characterized as immoral.

"Defendant's attorney submitted a well prepared and comprehensive memorandum wherein, among other things, he insists that in so far as Charge 1 is concerned testimony presented by the agents failed to support a possible finding that defendant's establishment was conducted in such a manner as to constitute a nuisance. A number of cases cited and quoted did not involve the type of patronage alleged in the first charge.

"Perhaps the principles set forth by the Director which constitute a nuisance within the meaning of Rule 5 of State Regulation No. 20 as laid down in Re Rutgers Cocktail Bar, A Corp., Bulletin 1133, Item 2 might well be repeated:

'Proper liquor control, bearing in mind that our primary responsibility is to protect the public welfare, dictates that the congregating of female impersonators or homosexuals in large numbers on licensed premises be staunchly prohibited. The situation disclosed by the record in this case constitutes a nuisance and, as such, is a clear violation of Rule 5 of State Regulation No. 20 as alleged in the charge. To permit such persons to gather and congregate in large numbers on licensed premises is itself detrimental to the public welfare and tends to encourage them to carry on their unnatural practices. In addition, innocent members of the public frequenting such premises, by being exposed to these conditions, may well be adversely affected.'

"Defendant's attorney concerning the three visits calculated the percentage of the females in question when compared with the number of persons of both sexes to be small. However, when the ratio of those persons described by the agents to the total number of females present on each occasion is examined, the percentages are substantially increased.

"After a careful examination of the record herein, I am satisfied that the Division has proven the violations alleged in both charges by a fair preponderance of the evidence. Hence, I recommend that the defendant be adjudged guilty thereon.

"Defendant has no prior adjudicated record. However, a letter dated August 18, 1959 was sent to defendant wherein she was cautioned not to permit lesbians to congregate on her licensed premises. In answer thereto defendant on August 21, 1959 wrote: 'I have always watched carefully in the matter of female impersonators, and whenever I find such a person, she is immediately put out of my establishment.' The evidence adduced herein with reference thereto discloses defendant's failure to fulfill her promise.

"I recommend that an order be entered suspending defendant's license on Charge 1 for sixty days (Rutgers Cocktail Bar, A Corp. supra) and on Charge 2 for fifteen days (Re Mello-D-Club, Bulletin 1380, Item 6), making a total suspension of defendant's

license for a period of seventy-five days."

Written exceptions to the Hearer's Report and written argument in substantiation thereof were filed with me by the attorney for defendant pursuant to Rule 6 of State Regulation No. 16.

Defendant's attorney contends that, with reference to Charge 1, the evidence presented indicates that on the dates in question only a relatively small number of apparent homosexuals congregated on the defendant's licensed premises and thus the Hearer's findings that the defendant conducted her business in such manner as to constitute a nuisance has not been established. Although it is true that the number of homosexuals present in the instant case was smaller than the number present in the case cited by the Hearer, I, nevertheless, find defendant guilty on said charge. I have examined the evidence concerning Charge 2 and find the defendant guilty thereof. However, in view of the lesser number of homosexuals on the premises as aforementioned and since no immoral activities took place at any times other than the obscene conversation of the two females as related by the agents, I shall modify the suspension recommended by the Hearer. On Charge 1, I shall suspend defendant's license for forty days (Re Rubinroit, Bulletin 1356, Item 2) and on Charge 2 for an additional fifteen days (Re Mello-D-Club, supra.), making a total suspension of fifty-five days.

Accordingly, it is, on this 25th day of April, 1961,

ORDERED that Plenary Retail Consumption License C-268, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Efcharis Carelis, t/a Hollywood Cafe, for premises 49-53 W. Broadway, Paterson, be and the same is hereby suspended for fifty-five (55) days, commencing at 3:00 a.m., Tuesday, May 2, 1961, and terminating at 3:00 a.m., Monday, June 26, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

- 3. DISCIPLINARY PROCEEDINGS - FAILURE TO FILE REPORTS WITH DIVISION OF TAXATION - FAILURE TO FILE NOTICE OF CHANGES IN APPLICATION - EMPLOYING UNQUALIFIED PERSON - LICENSEE CONVICTED OF CRIME INVOLVING MORAL TURPITUDE - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO APPLY FOR LIFTING OF SUSPENSION AFTER 45 DAYS UPON CORRECTION.

In the Matter of Disciplinary Proceedings against

MATTHEW WEINSTEIN & RUTH WEINSTEIN
257 Broad Avenue
Palisades Park, New Jersey

 Holders of Plenary Retail Distribution License D-8, issued by the Borough Council of the Borough of Palisades Park.

CONCLUSIONS AND ORDER

 Thomas E. Durkin, Jr., Esq., Attorney for Defendant-licensees.
 Davis S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charges:

- '1. You failed to file with the Director of the Division of Taxation (Beverage Tax Bureau) of the New Jersey Department of the Treasury, requisite monthly reports accurately and truthfully disclosing the amount of alcoholic beverages purchased by you during the months of September, 1958 to December, 1959, inclusive; in violation of R.S. 54:45-1.
- '2. You failed to file with the Borough Council of Palisades Park, within ten days after the occurrence thereof, written notice of change in facts set forth in answer to Question 33 of your current license application dated July 6, 1960, upon which you obtained your current plenary retail distribution license, such change being that one of you, Matthew Weinstein, was convicted in the United States District Court for the District of New Jersey on November 4, 1960 of the crime of possessing goods stolen from interstate shipment, in violation of Section 659, Title 18, U.S.C.; your failure to file such notice being in violation of R.S. 33:1-34.
- '3. On November 4, 1960, one of you, Matthew Weinstein was convicted in the United States District Court of the District of New Jersey of the crime of possessing goods stolen from interstate shipment, in violation of Section 659, Title 18, U.S. C., a crime involving moral turpitude, such conviction being an act or happening occurring after the time of your making application for your current plenary retail distribution license which, had it occurred before said time, would have prevented the issuance of the license, in accordance with R.S. 33:1-25.

'4. On November 21, 1960, you employed and had connected in a business capacity with you a person who had been convicted of a crime involving moral turpitude, namely, one of you, Matthew Weinstein, who on November 4, 1960 was convicted in the United States District Court for the District of New Jersey of the crime of possessing goods stolen from interstate shipment, in violation of Section 659, Title 18, U.S.C.; in violation of Rule 1 of State Regulation No. 13.'

"It appears from the testimony of Agent H that, as a result of an examination of defendants' records for the months of September 1958 to December 1959, inclusive, the monthly reports filed with the Beverage Tax Bureau disclosed vast discrepancies when compared with the invoices of the actual amount of alcoholic beverages purchased by the defendants during the period of time aforementioned.

"Defendants, although not disputing such to be a fact, contend that they forwarded the bills for alcoholic beverages to their accountant who prepared the monthly statements in question and could not account for said discrepancies.

"The monthly reports from September 1958 to December 1959, inclusive, with special reference to five wholesale distributors from whom defendants purchased most of their alcoholic beverages, disclosed that during the sixteen months in question, approximately one-third more alcoholic beverages were purchased than the amount shown on the monthly reports. It is apparent that this is not an isolated error which might be excusable. I am satisfied that defendants for reasons best known to themselves deliberately concealed the actual amount of alcoholic beverages purchased during the time in question. I am firmly convinced that when Matthew Weinstein, on behalf of defendants, affixed his signature to each monthly report, he had full knowledge of the provision in the report which reads 'that I signed the above report, and that the matters and things contained in the said report and in the schedules attached thereto are true, accurate and complete'. His explanation feigning ignorance of the inaccurate and untruthful disclosures during the period set forth in the charge preferred herein is unacceptable.

"The attorney appearing for the Division introduced in evidence a certified copy of a judgment in the United States District Court for the District of New Jersey pertaining to Matthew Weinstein wherein it disclosed that he pleaded guilty to the offense of possessing goods stolen from interstate shipment and, as a result thereof, was adjudged that he pay a fine of \$3,000.

"Matthew Weinstein testified that after the sentence was imposed, he visited police headquarters and reported the fact to Chief Cottrell, who testified that such was the case. Chief Cottrell further testified that he notified the borough clerk and the Mayor and Council. However, the defendants give no written notification to the issuing authority in accordance with the statute applicable thereto.

"The crime of possessing stolen goods, by its nature, ordinarily involves the element of moral turpitude. See Re Case No. 424, Bulletin 506, Item 3. However, the background in each case may be considered in determining whether that element is present. Re Case No. 194, Bulletin 577, Item 6.

"In the present case, Matthew Weinstein testified that although he knew that the goods were stolen, he nevertheless permitted part of the stolen merchandise to be stored in property belonging to him. Under the circumstances, the crime of which he was convicted involves moral turpitude. I therefore recommend that the Director, in his opinion, determine that Matthew Weinstein is ineligible to hold a license or to be associated in any capacity with the alcoholic beverage industry in this State. Cf. Re Buzak, Bulletin 840, Item 8. I further recommend that defendants be found guilty of the charges preferred against them.

"Defendants have a prior adjudicated record. Effective January 17, 1949, when operating a liquor establishment in Hackensack, their license was suspended for five days for sale of alcoholic beverages below the minimum consumer resale price. Bulletin 829, Item 4. Effective February 13, 1951, when Matthew Weinstein was an officer in a corporation which held a liquor license, the said license was suspended for thirty-five days for unlawful transportation of alcoholic beverages. Re Anton's Wines & Liquors, Inc., Bulletin 898, Item 5. Inasmuch as the aforesaid violations are dissimilar in character to those now under consideration and occurred more than five years ago, they will not be considered in fixing the penalty herein.

"Because of the finding of guilt on Charges 3 and 4, more particularly because of Matthew Weinstein's conviction of a crime involving moral turpitude, no license of any class may be issued to him. Hence, his conviction (with the resultant disqualification) is an act or happening, occurring after the time of making application for the license as a partner herein which, if it had occurred before said time, would have prevented the issuance of the license and is ground for suspension or revocation of the license. R.S. 33:1-31.

"I have given serious thought to the proper penalty to be imposed in this case. As above indicated, the license herein may be suspended or revoked upon the charges preferred in the instant case.

"It is recommended that the defendants' license be suspended for the balance of its term with the proviso that in the event the license is transferred to a duly qualified person, or in the event that said Matthew Weinstein is no longer a licensee or connected with the business in any capacity, application be permitted to be made for the lifting of such suspension but in no event shall an order be entered to lift the suspension prior to the expiration of forty-five days from the effective date thereof."

A written exception to the Hearer's Report with reference to the recommended penalty was filed with me by the attorney appearing for the Division, pursuant to Rule 6 of State Regulation No. 16.

After carefully considering the entire record in this case, including the transcript of the testimony, the Hearer's Report and the exception filed herein, I concur in the Hearer's findings and adopt his recommendations.

Accordingly, it is on this 24th day of April 1961,

ORDERED that Plenary Retail Distribution License D-8 for the 1960-61 licensing year, issued by the Borough Council of the Borough of Palisades Park to Matthew Weinstein & Ruth Weinstein, for premises 257 Broad Avenue, Palisades Park, be and the same is hereby suspended for the balance of its term, expiring at midnight, June 30, 1961, effective at 9 a.m., Monday, May 1, 1961, and it is further

ORDERED that leave is hereby granted to file a verified petition to lift said suspension in the event the license is transferred to a duly qualified person, or in the event that said Matthew Weinstein is no longer a licensee or connected with the said business in any capacity whatsoever but in no event shall an order be entered to lift the suspension prior to the expiration of forty-five days from the effective date hereof.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PERMITTING CONSUMPTION OF ALCOHOLIC BEVERAGES BY MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS.

In the Matter of Disciplinary Proceedings against)

KENILWORTH INN, A CORPORATION)
t/a KENILWORTH INN)
481 Blvd.)
Kenilworth, New Jersey)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Kenilworth.)

Matthew Grayson, Esq., Attorney for Defendant-licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant has pleaded not guilty to the following charge:

'During the early morning hours of Sunday, October 2, 1960, 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., Elizabeth ---, age 16, Robert ---, age 16 and Judith ---, age 17, 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 evidence herein clearly establishes that each of the three alleged minors mentioned in the charge was in defendant's licensed premises during the early morning hours of Sunday, October 2, 1960.

"At the hearing Elizabeth --- testified that she was born on November 30, 1943, and is a high school student; that shortly after midnight on the morning of October 2, 1960, she, Judith --- and a young man named Richard entered the side door of defendant's premises; that she and Judith went to different locations at a large table to the left of said entrance; that she and Judith left the table and danced together; that, when she returned to her place at the table, Julia Vitak (a waitress) came to the table with four drinks on a tray

and asked if one of the drinks was for her; that, when she replied in the affirmative, the waitress left one glass in front of her. Elizabeth further testified that she did not do anything with the drink at that time, but that she and Judith went back to the dance floor. However, she states that thereafter she returned to the table, picked up the same glass which had been placed in front of her by the waitress, and was consuming the contents of the glass when an ABC agent came to her, identified himself, questioned her as to her age and then seized the glass.

"Judith testified that she was born on May 14, 1943, and is a high school student; that at about 12:05 a.m. on October 2, 1960, she, Elizabeth and Richard entered the side door of defendant's premises; that she and Elizabeth went to different locations at a large table which seated about fourteen people; that she and Elizabeth left the table and danced together; that, when he returned to the table, she picked up a glass from the table and was drinking the contents thereof when a different ABC agent came to her, identified himself and seized the glass.

"Richard --- testified that he entered the premises with Elizabeth and Judith; that he and Elizabeth sat at one end of the long table, and that Judith sat at the other end; that the girls left to dance; that he ordered two drinks of whiskey, and that another young man at the table ordered another drink; that the waitress (whom he identified as Mrs. Oliveri) subsequently placed three glasses on the table and that he does not think that Elizabeth or Judith was at the table when he ordered.

"It is apparent from the testimony that neither Elizabeth nor Judith ordered or paid for their respective drinks.

"Robert --- testified that he was born on April 30, 1944, and is a high school student; that at about 11:30 p.m. on Saturday, October 1, 1960, he entered defendant's premises with another young man and that both of them, after a short period of time, sat at the bar; that he asked a male bartender for a glass of beer; that the bartender (Fred Rice) placed a glass and a bottle of beer on the bar in front of him; that he paid 50¢ to the bartender and then drank the beer; that thereafter he ordered another bottle of beer from the same bartender, left the bottle on the bar for a few minutes while he went over to the bandstand, and had just returned to the bar when an ABC agent came to him, identified himself and seized the bottle of beer.

"It further appears from the testimony that two ABC agents (hereafter identified as Agent T and Agent S) had entered defendant's premises at about 11 p.m. on Saturday, October 1, 1960.

"Agent T testified that, when they entered, three bartenders were on duty; that Julia Vitak and Cecelia Wickham were acting as waitresses; that there were more than one hundred patrons in the premises, and that a band was then playing. Agent T further testified that at about 12:10 a.m. he saw Elizabeth and Judith enter by a side door and saw a young man enter shortly thereafter; that the girls took seats at a large table, left the table, danced together, and thereafter returned to the table; that Julia Vitak, after visiting the same table, went to a service bar where a bartender filled each of four glasses with ice, soda and whiskey; that Julia Vitak placed the glasses on a tray, carried the tray back to the same table, placed the four glasses on the table, putting one of them just to the right of Elizabeth --- who reached out and took the glass. Agent T further testified that Elizabeth did nothing with the glass at that time; that she left the table and danced again but that, when she returned to the table, she picked up the glass which had been previously placed in front of her and was drinking the contents thereof.

when he went over to her, identified himself and seized her glass.

"Agent S testified in substantially the same way as to the events which took place on the premises up to the time that Julia Vitak carried the tray to the table. As to that incident, he testified that Julia Vitak placed the four glasses on the table; that Elizabeth reached out and placed one of the glasses in front of her; that Elizabeth then left the table to dance with Judith and that, when Elizabeth returned to the table, she consumed part of the contents of the glass she had previously placed in front of herself. Agent S further testified that, when Judith returned to her place at the table, she picked up a glass and was consuming the contents thereof when he identified himself to her and seized the glass. Agent S further testified that at about 12:25 a.m. he observed Robert --- consuming a glass of beer at the bar; that Robert then left the bar, walked towards the bandstand, came back to the bar and was pouring something from a bottle into a glass when the agent went over to where Robert was seated, identified himself and seized the glass.

"Both agents testified that the contents of the three glasses which they seized were poured into different bottles and the Division chemist testified that his subsequent analysis of the contents of these bottles disclosed that the drinks which were being consumed by Elizabeth and Judith consisted of whiskey, carbonated soda and gingerale, and the drink being consumed by Robert was beer.

"On behalf of the defendant, Julia Vitak testified that she and Cecilia Wickham were acting as waitresses in defendant's premises on the evening in question; that there were more than one hundred patrons in the premises; that she served ten tables including two large tables near the side door; that at about 12:30 a.m. Merwin Goldberg ordered four glasses of 'Seven and seven-up'; that she carried these glasses on a tray to one of the large tables and placed the glasses on the table; that neither Elizabeth nor Judith was at this table, and that she did not see either of them until after the ABC agents identified themselves.

"Merwin Goldberg testified that he was seated at a large table with nine other patrons; that he saw Elizabeth and Judith enter the premises and go to the ladies' room and that he did not see either of them again until they were speaking to the ABC agents; that neither Elizabeth, Judith nor Richard was seated at his table; that four glasses of alcoholic beverages were placed on his table and that, later in the evening, Agent S picked up two of these glasses.

"Mrs. Paula Oliveri (president of defendant corporation) testified that, because of illness, she was not present on the premises when the alleged violations occurred.

"Fred Rice testified that he was tending bar on the evening in question and that he did not serve any beer to Robert ---. Leonard Buntele testified that he was tending bar and did not see Robert --- on the premises.

"Helen Petrone testified that she is employed as headwaitress; that her duties include checking the ages of persons who appear to be too young; that she saw Elizabeth and Judith enter and go to the ladies' room and that she did not see them again until after the agents were speaking to them.

"There was introduced into evidence on behalf of defendant 'tabs' for various services made to a large table by Julia Vitak on the evening in question.

"After reviewing all the evidence, I make the following findings of fact as to Elizabeth and Judith: Although Julia Vitak may have served four drinks to Merwin Goldberg, I find that he was not at the same table at which Elizabeth, Judith and Richard sat. I do not believe the testimony of Goldberg that Agent S picked up two glasses (inferentially the seized glasses) at his table, because that is contrary to the evidence given by Elizabeth, Judith and the two ABC agents. I find that neither Elizabeth nor Judith ordered drinks, but that Julia Vitak did place four glasses of alcoholic beverages on the table at which they were seated and that each girl consumed at least a part of the contents of a glass of alcoholic beverages.

"In Re Morganstern and Oliner, Bulletin 292, Item 9, in a case quite similar in its facts, Commissioner Burnett said:

'I find the defendants guilty as charged. Even disregarding all other testimony, it is undenied that the waiter served at least one round of beer at Hazel's table. His story that, when taking and serving the order, only Hazel's mother and her friend were there, is even if true, no defense. Where a licensee, as here, freely permits 16-year-old minors upon the premises, it is his duty to see that liquor served at empty places at the tables is not intended for some of these minors. Were it otherwise, minors need but disappear temporarily in order to have licensees serve liquor to them with impunity.'

"In any event, the facts herein fully support a finding that defendant allowed, permitted and suffered the consumption of alcoholic beverages by Elizabeth and Judith in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20. Essex Holding Corp. v. Hock (Sup. Ct. 1947), 136 N.J.L.28.

"Additionally, I make the following findings of fact as to Robert: I believe the testimony of Robert that he purchased two bottles of beer from one of the bartenders and that he drank the contents of one bottle. His testimony that he drank the beer was corroborated by the agent and there is no serious reason to doubt that he purchased the beer from Fred Rice despite the denial by Rice that he made the sales. Even if, in fact, some other bartender made the sales, the failure to identify the proper bartender would not be fatal in this proceeding. Re LaCorte, Bulletin 469, Item 1; Re Sonny's Countryside Tavern, Inc., Bulletin 1379, Item 6.

"For the above reasons, I conclude that the Division has established defendant's guilt by a fair preponderance of the believable evidence and, hence, it is recommended that defendant be found guilty as to the entire charge so far as Robert --- is concerned and found guilty as to so much of said charge as alleges that defendant allowed, permitted and suffered the consumption of alcoholic beverages by Elizabeth and Judith in and upon its licensed premises.

"Defendant has a prior record. Effective May 28, 1956, its license was suspended by the Director for ten days for possessing alcoholic beverages not truly labeled. Bulletin 1117, Item 10. It is further recommended, therefore, that an order be entered suspending defendant's license for thirty days, the minimum penalty in a case involving three minors 16, 16 and 17 years of age (Re Fogler, Bulletin 1145, Item 7), and for an additional five days because of the dissimilar violation within the past five years (Re Passner, Bulletin 1379, Item 8), thus making a total suspension of thirty-five days."

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

After carefully considering the evidence and exhibits herein, I concur in the findings and conclusions of the Hearer and shall adopt his recommendation as to the period of suspension. Hence, I find defendant guilty of the charge as to Robert --- and guilty of that portion of the charge which alleges that Elizabeth --- and Judith --- were permitted to consume alcoholic beverages in and upon the licensed premises.

Accordingly, it is, on this 24th day of April 1961,

ORDERED that plenary retail consumption license C-1 issued by the Borough Council of the Borough of Kenilworth to Kenilworth Inn, A Corporation, t/a Kenilworth Inn, for premises 481 Blvd., Kenilworth, be and the same is hereby suspended for thirty-five (35) days, commencing at 2 a.m. Monday, May 1, 1961, and terminating at 2 a.m. Monday, June 5, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING SUSPENSION PREVIOUSLY IMPOSED.

In the Matter of Disciplinary Proceedings against)	
)	
KENILWORTH INN, A CORPORATION)	
t/a KENILWORTH INN)	On Petition
481 Blvd.)	
Kenilworth, New Jersey)	
)	ORDER
Holder of Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Kenilworth.)	

Matthew Grayson, Esq., Attorney for Defendant-licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

An order having been entered herein on April 24, 1961 suspending defendant's license for thirty-five days commencing at 2 a.m. Monday, May 1, 1961, and terminating at 2 a.m. Monday, June 5, 1961; and

It appearing from the petition filed herein by Paula P. Oliveri, president of defendant corporation, that long prior to the entry of said order defendant had completed arrangement for various wedding receptions and banquets to be held on its licensed premises on May 6, 16, 20 and 27 and June 3 and 10, and that hundreds of persons would be inconvenienced by the suspension of the license on said dates, and good cause appearing for the postponement of said suspension,

It is, on this 26th day of April 1961,

ORDERED that the suspension for thirty-five days, instead of commencing at 2 a. m. Monday, May 1, 1961, shall, in lieu thereof, commence at 2 a. m. Monday, June 12, 1961, and continue in effect until the expiration of the license at midnight June 30, 1961; and it is further

ORDERED that any renewal for the 1961-62 licensing year, or transfer of said license, shall be and remain under suspension until 2 a.m. Monday, July 17, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

6. STATE LICENSES - NEW APPLICATIONS FILED.

Landis Beverage Co.

North Delsea Drive and Dutch Mill Road

Franklin Township, PO Malaga, New Jersey

Application filed July 12, 1961 for place-to-place transfer of State Beverage Distributor's License SBD-30 from South Delsea Drive and Garrison Road, Vineland, New Jersey.

Robert Friedlander, Receiver of New Jersey

Shore Distributors Inc.

235 Creek Road

Keansburg, New Jersey

Application filed July 17, 1961 for State Beverage Distributor's License.

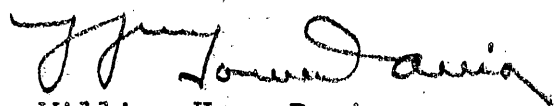
Charles Kubiak

t/a Hazlet Beverages

Lot 23, Block 68M, Highway No. 36

Box 64A, Hazlet, Raritan Township, New Jersey.

Application filed July 17, 1961 for person-to-person, place-to-place transfer of State Beverage Distributor's License, if and when granted to Robert Friedlander, Receiver of New Jersey Shore Distributors Inc., 235 Creek Road, Keansburg, New Jersey.



William Howe Davis
Director

New Jersey State Library