

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

BULLETIN 1503

APRIL 8, 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 1503

APRIL 8, 1963

1. APPELLATE DECISIONS - ZISMAN AND HOOKERMAN v. MARGATE CITY  
AND GORE AND SARDELLA.

SIMON ZISMAN AND SYLVIA ZISMAN, )  
SIDNEY HOOKERMAN AND PEARL )  
HOOKERMAN, )

Appellants, )

v. )

ON APPEAL  
CONCLUSIONS  
AND ORDER

BOARD OF COMMISSIONERS OF THE CITY )  
OF MARGATE CITY AND EDWARD C. GORE )  
AND CARLO M. SARDELLA, t/a EDDIE )  
& CARLO'S BEACH CLUB, )

Respondents. )

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Clarence Blitz, Esq., Attorney for Appellants  
- Enoch A. Higbee, Jr. Esq., Attorney for Respondent Board of  
Commissioners  
Elias G. Naame, Esq., by Robert H. Davisson, Esq., Attorney for  
Respondents Edward C. Gore and Carlo M. Sardella

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal pursuant to R.S. 33:1-31 from the action of the respondent Board of Commissioners (hereinafter Commissioners) whereby it found respondent licensees (hereinafter Beach Club) not guilty of violation of Rule 5 of State Regulation No. 20 and dismissed charges theretofore preferred in disciplinary proceedings against them.

"Appellants allege in their petition of appeal that the action of the Commissioners should be reversed and that the Beach Club's license should be revoked or suspended because

'\*\*\*the action of the City of Margate City, N.J. was erroneous in that the testimony submitted adequately proved that the respondent licensee had violated Reg. 20, Rule 5 aforesaid in that they allowed, suffered or permitted in or upon the licensed premises unnecessary noise and conducted the same in such a manner as to become a nuisance.'

"The answer of the Commissioners denies the appellants' allegations and, in substantiation of the action taken, contends that:

'\*\*\*after hearing the evidence presented to the Board of Commissioners of the City of Margate City conducting the hearing on the charges made by the complainants, the said Board of Commissioners, in their opinion and in the

exercise of their judgment, found the testimony, so presented, did not justify either the revocation or suspension of the license in question, but did require that the licensed premises have installed therein, air conditioning, windows kept closed, storm windows installed and closed, entrance door closed, and a storm enclosure constructed at the entrance thereto, all of which was duly performed and completed before the final hearing and before judgment was entered.

"None of the Commissioners appeared at the hearing of the appeal but, without objection, the written opinion of the Commissioners with reference to the matter in question was marked as an exhibit herein. Although quite lengthy, I shall not attempt to paraphrase the said opinion but shall set it forth in its entirety. The determination reads as follows:

'On the complaint filed with the Board of Commissioners of the City of Margate City on June 13, 1962 by Simon Zisman and Sylvia Zisman, his wife, Sidney Hookerman and Pearl Hookerman, his wife, against Carlo M. Sardella and Edward Gore, trading as Eddie and Carlo's Beach Club, 9100 Atlantic Avenue, Margate City, New Jersey, who hold plenary retail consumption license C6, issued by the City of Margate City to them, alleging violation of State Regulation #20, Rule 5, conducting the premises in such a way as to cause unnecessary noise or a nuisance, the following decision has been made by the undersigned, Martin Bloom, Commissioner and Mayor of the City of Margate City, and Russell C. Roney, Commissioner, William H. Ross, III, having disqualified himself because of his employment with the Alcoholic Beverage Control of the State of New Jersey.

'Several hearings were conducted by Mayor Bloom and Commissioner Roney, and the above-named complainants and others and the defendants, or one of them, appeared and testified as witnesses. Hearings were continued from time to time at the request of counsel for the licensees, and licensees promised to install air conditioning in the licensed premises, a storm door enclosure to the only outside entrance of the public to said premises, and to keep their windows closed and install storm windows and keep them closed while music was being played within the premises. The complainants and their witnesses testified that the sound and noise created by the orchestra and, particularly, the drum, prevented them from sleeping at night time and thereby resulted in a private nuisance to them. There is no doubt, in the minds of the Mayor and Commissioners, that the sound of the music and the drum, emanating from said premises, would disturb the sleep of the complainants prior to the installation of the air conditioning system in said premises and the construction of the storm enclosure at the entrance of the public to said premises and before the windows were kept shut with the addition of storm sash.

'However, the Commissioners, after hearing the testimony and after the installations mentioned above have been made, without notice to the licensees, personally visited the neighborhood of the premises at night time and the premises of the complainants and, although music was being played by the orchestra in said licensed premises at the time, the Commissioners were unable to hear any disturbing or unnecessary noise or nuisance emanating from the licensed premises from their own personal observation.

'The Commissioners, therefore, find that, under the conditions, namely, that air conditioning is continued in said premises with windows closed and storm sash closed and the entrance of the public to said premises enclosed, as hereinabove recited, the business of the licensed premises is not now being conducted with unnecessary noise or resulting in a private nuisance to the complainants, and the charges set forth in the complaint are hereby dismissed.'

"Sergeant James J. Creaghe, Jr. (a member of the Margate City Police Department), in response to the service of a subpoena duces tecum upon him, produced the records of the Police Department pertaining to telephone calls made to police headquarters concerning the operation and conduct of the Beach Club. It appears that since September 1961 thirteen calls were recorded complaining of noise or disturbance at the Beach Club, eight of which calls were received from the Zisman family, four from the Hookerman family and one call from a Mrs. Saifer. An examination of the said complaints discloses that the majority of the calls complained of loud music. Reports made by the respective police officers assigned to investigate the complaints indicate that in most of the cases they found no noise but nevertheless directed the Beach Club to keep the doors closed.

"Pearl Hookerman and Sylvia Zisman (whose homes are adjacent to each other) both live across the street from the Beach Club. The complaining witnesses testified they could not remember the specific dates when they had been annoyed by the noise and music emanating from the Beach Club. They also complained that on occasion patrons leaving the Beach Club were noisy. However, the sound of the music which appellants allege came from the Beach Club, especially in the early hours of the morning on week-ends, appeared to be the principal cause of complaint.

"Richard Blitz (a constable employed by appellants) testified that on May 27, 1962, for a period of four hours, as he sat in his car parked in front of the Zisman home, he could hear the music whenever played in the Beach Club.

"Another witness, Leonard Zisman (son of Sylvia Zisman), testified that, although he was away from home for most of the period in question, when at home in the evenings and early mornings he could hear the 'continuous music and rhythm' and at times he was annoyed by people leaving and talking and getting into their cars in the area.

"Gary Schenfield (a staff writer for a newspaper) testified that from about September 11, 1961, to June 12, 1962, he resided at the White Sands Motel where his room was on the

ground floor facing Atlantic Avenue about fifty feet from the Beach Club; that 'The only time I did hear the music was sometimes when the people would open and close the door. Then, I would hear it for a few seconds.' Furthermore, although he is a 'light sleeper', the music never interfered with his sleep.

"Edward Gore (one of the partners in the Beach Club) testified that air conditioning equipment has been installed in the licensed premises, a storm door has been erected, and windows are kept closed at all times. He further stated that, although the music is amplified to give complete coverage to the bar, the speakers are adjusted because the club 'is so small you can only turn them up so loud or you get what they call feed back. It is a squeal.' Furthermore, in June 1962, Gore testified, he turned up the volume on the juke box to its limit, went across near the homes of the appellants and listened. When the doors were closed, he could not hear the music but 'With the door open you can distinguish it.' Since the place was air conditioned he had not made any experiments.

"Carlo Sardella (the other partner-licensee) testified that he spoke to the respondent Commissioners and, as a result of the conversation, air conditioning equipment was installed and a sound barrier was erected to cover 'The entire front door, and then some and it is designed, because the building is octagon-shaped at that point, it is a cater-cornered cut for the front door. It is designed to break the sound that emanates from the place when the door opens and simply turn it aside down beach away from the complainants. It is made of an absorbent material, sound absorbent.'

"John G. Struckell (employed by Eastern Broadcasting Company as general manager of a broadcasting station) testified that beginning at midnight and continuing until the early morning of Sunday, June 17, 1962, he made tests to determine whether the sound of music playing in the Beach Club could be heard across the street in the area of appellants' homes. Struckell testified that he could not hear the music and that he used a small instrument known by the brand name as a Transicorder and while standing on the opposite corner from the Beach Club in front of the Zisman house, the sound was 'not recordable and just as faint as faint could be.'

"The Commissioners made a personal investigation one night in the area of the Beach Club and were of the opinion that, although music was being played by an orchestra in the licensed premises, they were unable to hear any disturbing or unnecessary noise which might be characterized as a nuisance.

"I have examined the testimony of the witnesses in the instant case and am satisfied that the Beach Club has not been operated in such a manner as to constitute a nuisance within the meaning of the Alcoholic Beverage Law. It is apparent that the owners of the Beach Club have made sincere efforts to ameliorate conditions which might have existed so that persons residing in close proximity to the Beach Club would not be subjected to any undue annoyance or discomfort. The installation of air conditioning equipment, keeping the windows closed, and the erection of a sound barrier at the entrance to the premises is tangible proof of cooperation on the part of the owners of the Beach Club.

"I have carefully considered all the evidence presented herein. No complaints have been made as to the conditions

inside the premises with the exception of music being played therein. A licensee, of course, is responsible for conditions on the outside of the premises emanating from inside, as well as for conditions on the inside, and must make every effort to keep patrons from causing annoyance to others residing in the neighborhood. The owners of the Beach Club, by action already taken, have shown that they have accepted responsibility in this regard and that they are fully aware that they must make every effort to prevent any criticism in the future.

"Under the facts appearing herein, I am convinced that the Commissioners were not improperly motivated in their action. I am also satisfied that their decision was based upon the evidence presented and as a result of their personal investigation of the matter. I therefore recommend that the action of the Commissioners be affirmed, and that the appeal herein be dismissed."

Pursuant to the provisions of Rule 14 of State Regulation No. 15, written exceptions to the Hearer's Report and written argument with respect thereto were filed with me by the attorney for appellants.

Having carefully considered the entire record, including the evidence, exhibits, Hearer's Report, exceptions and arguments thereto made by the attorney in behalf of appellants, I concur in the conclusions of the Hearer and adopt them as my conclusions herein. I shall enter an order in accordance with the recommendation.

Accordingly, it is, on this 20th day of February, 1963,

ORDERED that the action of respondent Board of Commissioners of the City of Margate City be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

2. DISCIPLINARY PROCEEDINGS - ORDER FIXING EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against )  
 )  
 JOHN J. SCHILLIG )  
 t/a SCHILLIG'S ESCORT BAR ) ORDER  
 2200 Atlantic Avenue )  
 Atlantic City, N. J. )

Holder of Plenary Retail Consumption License C-172, issued by the Board of Commissioners of the City of Atlantic City. )  
 )

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 Gennaro Consalvo, Esq., Attorney for Licensee.  
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

On January 10, 1963, the Director entered an order in the above matter deferring the license suspension of sixty-five days (for permitting indecent entertainment, hostess activity and employment of non-residents without permit) because it appeared that the licensed business was conducted only on a limited basis. Re Schillig, Bulletin 1496, Item 5.

Report of recent inspection of the licensed premises indicates that the licensed business is now being conducted substantially on a full time basis. Consequently, the deferred suspension may be imposed.

Accordingly, it is, on this 26th day of February, 1963,

ORDERED that Plenary Retail Consumption License C-172, issued by the Board of Commissioners of the City of Atlantic City to John J. Schillig, t/a Schillig's Escort Bar, for premises 2200 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for sixty-five (65) days, commencing at 7:00 a.m. Tuesday, March 5, 1963, and terminating at 7:00 a.m. Thursday, May 9, 1963.

EMERSON A. TSCHUPP  
 ACTING DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against )

HELEN GRZYBOWSKI, BARNEY GRZYBOWSKI & J. ELEANOR MIESNER t/a BARNEY'S BAR & RESTAURANT 136 Garfield Avenue Jersey City 5, N. J. )

CONCLUSIONS AND ORDER

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Holders of Plenary Retail Consumption License C-106, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

James F. McGovern, Jr., Esq., Attorney for Licensees.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"The licensees pleaded not guilty to the following charges:

- '1. On Sunday, September 16, 1962, between 11:30 A.M. and 12:05 P.M., 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 allowed, permitted and suffered the removal of said alcoholic beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38.
'2. On Sunday, September 16, 1962, between 11:30 a.m. and 12:05 P.M., you conducted your licensed business in violation of Section 4 of Ordinance K-1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950.'

"To substantiate the charges, the Division produced ABC agents S and T who participated in the investigation of the licensees' business.

"Succinctly stated, the evidence adduced by the Division is as follows: At 11:55 A.M. Sunday, September 16, 1962, the agents arrived in the vicinity of the licensed premises which consists of the first floor of a three-story building located on the corner of Gates and Garfield Avenues, Jersey City. Stationing themselves at a point of vantage, the agents observed that a few feet from the corner on Garfield Avenue was a door leading to the bar area; that twenty feet to the left therefrom on said avenue was a double door and that a plate glass window extended from the entrance to the bar area to within a foot of the double door. On closer inspection the agents observed, through an open panel set back from the window in the bar area, a man later identified as

Barney Grzybowski (hereafter Barney), one of the licensees. At 11:15 the agents noticed a man, later identified as Francis Smith (hereafter Smith), approach the tavern, tap on the window at the open panel, proceed to the side door and enter the building. A moment or so later, the agents saw the man emerge therefrom and in his pants pocket was a bottle, the top of which was plainly discernible. The agents approached Smith and, after a brief conversation with him, Agent S tapped on the window in front of the opening and when Barney looked out Agent S proceeded to the side door and entered into a vestibule approximately 6 x 6 feet, keeping the outer door ajar with his foot so that Agent T and Smith, who were on the step outside, could see him. A man, later identified as Casimir Burek (hereafter Burek), opened the inner door and Agent S asked him for a pint of whiskey. Burek said he did not know him and closed the door. Agent S, keeping the outer door ajar, conversed with Smith and handed him a ten dollar bill. Smith walked to the window, tapped on it with a coin and joined Agent S in the vestibule. Both agents saw Burek open the inner door, confer with Smith, accept the ten dollar bill and close the door. In a minute or so, Agent S observed Burek open the door, hand Smith a pint bottle of Seagram's whiskey and some bills, and close the door. Smith handed Agent S the whiskey and seven dollars and, after the agents identified themselves, Agent T tapped on the window and entered the vestibule. When Burek opened the door, both agents identified themselves, proceeded with Smith and Burek into a hallway used by upper floor tenants and walked about eight feet, and entered through a doorway into the bar area. Both agents identified themselves to Barney and related all that they had observed and informed him that Smith had imparted to them the signal used to obtain alcoholic beverages during prohibited hours. The agents then searched the premises but were unable to locate any ten dollar bill although they did find, in a partially filled case of Seagram's whiskey, that one of the bottles bore the next serial number to the one Smith had purchased. Burek, Barney and Smith were questioned and, while none of them would give a signed statement, Barney answered 'laconically' the questions propounded to him. Smith was later taken by the local police to headquarters where he gave the agents a signed sworn statement. The bottle of wine which the agents had taken from Smith and the bottle of whiskey were received in evidence as Exhibits S-1 and S-2, respectively.

"Appearing on behalf of the licensees were Casimir Burek and Barney Grzybowski.

"Burek testified in substance that he is employed by the licensees to clean the oven and griddle and to mop the kitchen on Sundays and that, when the agents rapped on the door, he opened it figuring it was the paper boy; that Agent S asked for a pint of whiskey and he said 'I can't give it to you. It's Sunday;' that Agent S 'threw his foot in the door, he threw his ABC card at me' and 'he called Smitty over and--whatever that guy's name is--and they forced themselves in'; that Agent S said to Smith 'If you admit that you bought this bottle in Barney's, I will give you ten dollars' and Smith said 'I don't care. I was locked up before'; and that Agent S said 'If you get ten dollars, I won't take you to police headquarters' and Smith denied five or six times that he made the purchase.

"Barney testified in substance that on Sunday morning, September 16, 1962, he was sitting at his desk checking last week's receipts when the agents came in; that one of them said to Smith 'What you got in your pocket? Take out of your pocket. Where did you get it?' and Smith said 'I got it down at Merritt

Street where you picked me up'; that Smith took two bottles from his pocket and put them on the bar; that the agent said 'You going to go to jail if you don't tell where you got the bottles'; that Smith said 'I don't care. I have been in jail before'; that one of the agents went to the phone and in about fifteen minutes a police car arrived; that he told the police that the agents and Smith left in the agents' car. Barney further testified that neither he nor Burek sold alcoholic beverages to Smith and that he has operated a bar and restaurant on the same corner for thirty-three years.

"Smith was not produced as a witness for the licensees.

"In rebuttal, the agents denied the alleged conversations with Smith to which Burek and Barney testified.

"The licensees' attorney, in lieu of summation, submitted a memorandum in which he contends that (1) the alleged illegal sale was not established by a fair preponderance of the evidence, (2) assuming there was a sale, it was the result of larceny on the part of Burek, and (3) there was an entrapment (citing the case of State v. Rosenberg, 37 N. J. Super. 197 at 204 (App.Div. 1955)).

"As to (3), 'Entrapment' said Mr. Justice Roberts in Sorrells v. United States, 287 U.S. 435 at 454 (1932) (cited in State v. Rosenberg, supra) 'is the conception and planning of an offense by an officer, and his procurement of its commission by one who would not have perpetrated it except for the trickery, persuasion, or fraud of the officer.'

"Commissioner Burnett, in Zimmerman v. Bernards, Bulletin 228, Item 10, stated that after reviewing the authorities on this subject, he came to the conclusion that 'in order to establish the defense of entrapment, it must appear that some official charged with enforcement of the law, either himself or through some other person acting for him, implanted a criminal scheme in the mind of an otherwise innocent individual; that the very essence of the defense of entrapment is that the crime originated in the mind of the officer rather than of the accused. The question is one of practical law enforcement... Public officials have no right to treat the innocent scurrilously--neither are they to be over-squeamish in dealing with offenders' (emphasis supplied). See Re Sandago, Bulletin 249, Item 1.

"I find no evidence in the instant case from which it can be inferred that the agents implanted an unlawful design in the mind of Burek or that they by trickery, persuasion or fraud induced him to commit a wrongful act. The agents were investigating a specific complaint alleging the very violation charged and, during the course of their investigation, they merely afforded Burek an opportunity to commit an offense which they had reasonable cause to believe he committed a short time previously by selling a bottle of wine to Smith. Clearly, there was no entrapment.

"As to (2), I find no substantial evidence in the case from which larceny on the part of Burek can be reasonably inferred.

"As to (1), having had the opportunity to judge the credibility of the witnesses and recognizing the sharp dispute of facts, I find that although there are some discrepancies in the agents' testimony which are of no great import, their testimony with respect to the material facts in the case is both credible and convincing. On the contrary, I cannot, in view of all the circumstances appearing herein, give credence to

the testimony of the licensees' witnesses. I conclude, therefore, that the Division has established the truth of the charges by a fair preponderance of the believable evidence and I recommend that the licensees be adjudged guilty as charged.

"When the license was held individually by Helen Grzybowski, one of the licensees herein, it was suspended by the Director for ten days effective July 22, 1957 for the same type of violation as set forth in charge 1. Re Grzybowski, Bulletin 1185, Item 7.

"Considering the prior similar violation which occurred more than five but less than ten years ago, I further recommend that an order be entered suspending the license herein for twenty-five days. Re DiGrezia, Bulletin 1434, Item 6."

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 entire record herein, including the transcript of the testimony, the exhibits, the memorandum of facts and law submitted by the licensees' attorney in lieu of summation, and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 25th day of February, 1963,

ORDERED that Plenary Retail Consumption License C-106, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Helen Grzybowski, Barney Grzybowski and J. Eleanor Miesner, t/a Barney's Bar & Restaurant, for premises 136 Garfield Avenue, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, March 4, 1963, and terminating at 2:00 a.m. Friday, March 29, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE TO NON-MEMBERS - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

EIGHTH WARD PROGRESSIVE REPUBLICAN CLUB )

1700 S. 7th Street Camden 4, N. J. )

CONCLUSIONS AND ORDER

Holder of Club License CB-25, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden. )

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Licensee, by F. L. Henderson, Secretary, Pro se.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads guilty to a charge alleging that on February 2, 1963, it sold drinks of alcoholic beverages to non-members, in violation of Rule 8 of State Regulation No. 7.

Licensee has a previous record as follows:

1. Suspension of license by the then Commissioner for ten days, effective June 2, 1942, for hours violation. Bulletin 514, Item 4.
2. Revocation of license by the then Commissioner effective August 8, 1942, for a "front" violation. Bulletin 524, Item 7.
3. Suspension of license by the Director for ten days, effective November 8, 1954, for sale to non-members. Bulletin 1038, Item 6.
4. Suspension of license by the Director for fifty-five days, effective January 28, 1958, for (a) sale to non-members, (b) permitting a brawl, (c) permitting foul, filthy and obscene language and (d) service of beverages to women over the bar. Bulletin 1210, Item 3.

The prior record of dissimilar violations occurring more than five years ago disregarded but considering the two similar violations occurring more than five but less than ten years ago, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Cf. Re Twelve Aces Social Club, Bulletin 1481, Item 9.

Accordingly, it is, on this 26th day of February, 1963,

ORDERED that Club License CB-25, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Eighth Ward Progressive Republican Club for premises 1700 S. 7th Street, Camden, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, March 5, 1963, and terminating at 2:00 a.m. Monday, March 25, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - ALLEGED MITIGATION LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

STRIKE & SPARE LANES CORP. )  
Route #22 )  
Green Brook Township )  
PO RFD 2, Bound Brook, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Green Brook. )

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Licensee, by Ruben A. Dankoff, President, Pro se.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 25, 1963, it sold drinks of beer to a minor, age 18, in violation of Rule 1 of State Regulation No. 20.

In alleged mitigation, the licensee claims that the sales were made in reliance on false identification presented by the minor on a prior occasion. As to this, it is pointed out that reliance on false identification, in the absence of obtaining requisite written representation of age, as contemplated by R.S. 33:1-77, constitutes no defense and very little mitigation since the public impact of the violation is the same. At best, it bespeaks the imposition of the established minimum penalty in age-similar cases, perhaps without possible increase for aggravating circumstances. Re Elia, Bulletin 1492, Item 7.

Absent prior record, the license will be suspended for the minimum period of fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Seery, Bulletin 1478, Item 12.

Accordingly, it is, on this 19th day of February, 1963,

ORDERED that Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Green Brook to Strike & Spare Lanes Corp. for premises on Route #22, Green Brook and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Tuesday, February 26, 1963, and terminating at 2:00 a.m. Friday, March 8, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

6. MORAL TURPITUDE - CONVICTION FOR ESCAPE FROM CONFINEMENT  
HELD NOT TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.

Re: Eligibility No. 708

Applicant seeks a determination as to whether or not, in the opinion of the Director, she is eligible to be employed on liquor licensed premises in this state, in view of her conviction of a crime.

The records received by this Division disclose that the applicant was convicted of escape from a women's reformatory, after pleading guilty thereto, on March 25, 1960. As a result, she received an indeterminate sentence, being subsequently paroled on July 19, 1962. In addition, the record and testimony of the applicant reveal that her confinement in the woman's reformatory and prior confinement in a state home for girls was the result of her being a runaway.

The crime of escape may or may not involve moral turpitude depending on the circumstances of the case. Here, the original incarceration resulted from acts as a juvenile runaway, no crimes in themselves. The actual escape did not in any way involve force or threats of force. In my opinion, applicant's conviction under the circumstances did not involve the element of moral turpitude.

It is recommended that applicant be advised that, in the opinion of the Director, she is not ineligible to be associated with the alcoholic beverage industry in this state by reason of her conviction of the aforementioned crime.

Dated: February 20, 1963.

Clarence E. Kremer  
Attorney

Approved:

Emerson A. Tschupp  
Acting Director

7. DISCIPLINARY PROCEEDINGS - ORDER TERMINATING SUSPENSION ON PROOF OF CORRECTION OF UNLAWFUL SITUATION.

In the Matter of Disciplinary Proceedings against	)		13
	)		
BERGEN SMITH RECREATION, INC.	)	AMENDED ORDER	13
13-15-17 Smith Street	)		
Jersey City 6, N. J.	)		
	)		
Holder of Plenary Retail Consumption License C-346, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.	)		13

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 Matthew F. Czachorowski, Esq., Attorney for Licensee.  
 David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

On January 21, 1963, I entered an order suspending the license herein for the balance of its term commencing January 28, 1963, with leave to the licensee or any bona fide transferee of the license to file verified petition establishing correction of the then unlawful situation (Undisclosed interest of Charles Motkowski, beneficial owner of all of the corporate stock) for lifting of the suspension on or after 2:00 a.m. Friday, February 22, 1963. Re Bergen Smith Recreation, Inc., Bulletin 1498, Item 4.

It appearing from verified petition submitted by the licensee that Charles Motkowski is now disclosed in the application for license as the holder of 1014 shares of the 1020 shares of stock issued, I shall grant the petition requesting termination of the suspension.

Accordingly, it is, on this 20th day of February, 1963,

ORDERED that the suspension heretofore imposed herein be and the same is hereby terminated, effective 2:00 a.m. Friday, February 22, 1963.

EMERSON A. TSCHUPP  
 ACTING DIRECTOR

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

In the Matter of Disciplinary Proceedings against )

RUTH SHAPIRO )  
t/a GEORGE'S HARMONY TAVERN )  
402 Federal Street )  
Camden 3, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-167, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden. )

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

BY THE ACTING DIRECTOR:

Licensee pleads guilty to a charge alleging that on February 5, 1963, at 8:35 a.m. she sold a pint bottle of whiskey 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 Davidson Liquors, Inc., Bulletin 1493, Item 9.

Accordingly, it is, on this 25th day of February, 1963,

ORDERED that Plenary Retail Consumption License C-167, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Ruth Shapiro, t/a George's Harmony Tavern, for premises 402 Federal Street, Camden, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, March 4, 1963, and terminating at 2:00 a.m. Thursday, March 14, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

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

In the Matter of Disciplinary Proceedings against

ESTHER S. FORRESTER  
t/a THE PLAYROOM  
84 Third Street  
Passaic, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-86, issued by the Board of Commissioners of the City of Passaic.

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

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 2, 1963, at 11:45 P.M., she sold a quart bottle of whiskey 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 Davidson Liquors, Inc., Bulletin 1493, Item 9.

Accordingly, it is, on this 25th day of February, 1963,

ORDERED that Plenary Retail Consumption License C-86, issued by the Board of Commissioners of the City of Passaic to Esther S. Forrester, t/a The Playroom, for premises 84 Third Street, Passaic, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. Monday, March 4, 1963, and terminating at 3:00 a.m. Thursday, March 14, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

10. STATE LICENSES - NEW APPLICATION FILED.

Delaware Valley Distributors, Inc.  
403 Samuel Street  
Hamilton Township  
PO Trenton, New Jersey  
Application filed April 8, 1963 for limited wholesale license.

  
Emerson A. Tschupp  
Acting Director