Director Davis
Sent to Regular Mailing List

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 1083 OCTOBER 17, 1955.

TABLE OF CONTENTS

ITEM

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 1083 OCTOBER 17, 1955.

1. APPELLATE DECISIONS - ENGELHORN v. BELMAR.

FRED ENGELHORN, trading as CAMPBELL-EVANS HOTEL,

Appellant,

-vs-

BOARD OF COMMISSIONERS OF THE BOROUGH OF BELMAR,

Respondent.

ON APPEAL
CONCLUSIONS AND ORDER

Braun and Hoey, Esqs., by Henry F. Hoey, Jr., Esq., Attorneys for Appellant.
Harold Feinberg, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from respondent Board's action whereby it suspended appellant's plenary retail consumption license for a period of fifteen days, effective August 18, 1955, after adjudging him guilty in disciplinary proceedings on a charge alleging that on July 2, 1955, he sold, served and delivered alcoholic beverages to, and permitted the consumption of said beverages on his licensed premises by three minors, ages 19, 19 and 20, in violation of Rule 1 of State Regulations No. 20. The licensed premises are located at 112 - 5th Avenue, Belmar, N. J.

Upon the filing of this appeal, an order dated August 17, 1955 was entered by me staying respondent's order of suspension until entry of a further order herein. R. S. 33:1-31.

On the appeal the matter was heard de novo. Rule 6 of State Regulations No. 15.

The record herein discloses that appellant, though prosecuting his appeal to its conclusion, concedes that he is "technically guilty" of the violation hereinabove set forth, thus narrowing the issue for my determination to the quantum of penalty imposed by respondent, which appellant alleges is harsh and excessive.

It has long been established that the question of quantum of penalty rests within the sound discretion of the local issuing authority and will not be disturbed on appeal unless it is clearly excessive and manifestly unreasonable. Re Brigantine Beach Hotel Corp., Bulletin 1068, Item 1.

After carefully considering the evidence herein, including the mitigating circumstances testified to by appellant's witnesses, I find that the penalty heretofore imposed by respondent is neither harsh nor excessive. In fact, it is the minimum period of suspension imposed by this Division after a finding of guilt of like violations.

The action of the respondent will, in all respects, be affirmed; the appeal herein will be dismissed and the fifteen-day suspension originally imposed will be reinstated.

Since it appears that appellant holds an all-year-round license but operates his business on a seasonal basis and that the premises are at present closed, the effective date of the reinstated suspension will be fixed by a further order to be entered by me after the licensed premises shall have been opened for business for the 1956 summer season. Cf. Re Roesch, Bulletin 966, Item 4.

Accordingly, it is, on this 26th day of September, 1955,

ORDERED that the action of the respondent be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that Plenary Retail Consumption License C-7, issued by the Board of Commissioners of the Borough of Belmar to Fred Engelhorn, t/a Campbell-Evans Hotel, for premises 112 - 5th Avenue, Belmar, or any further license that may be issued to the licensee herein or to any other person for the same premises, be and the same is hereby suspended for a period of fifteen (15) days, the effective dates to be fixed by a subsequent order as aforesaid.

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - SMARSCH v. ELIZABETH.

ADOLPH SMARSCH, trading as PENN BROOK INN,

Appellant,

-vs-

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE CITY OF ELIZABETH,

Respondent.

ON APPEAL
CONCLUSIONS AND ORDER

Nicholas St. John LaCorte, Esq. and Green and Yanoff, Esqs., by H. Kermit Green, Esq., Attorneys for Appellant.
Louis P. Longobardi, Esq., Attorney for Respondent.

BY THE DIRECTOR:

Appellant holds a plenary retail consumption license for premises at 33-35 West Grand Street, Elizabeth. He appeals herein from respondent's action whereby it suspended his license for thirty-five days after finding him guilty of the following charge:

> "that on Friday, March 18, 1955, you did allow, permit and suffer an act of violence and disturbance in and upon the licensed premises in violation of Rule 5 of State Regulations No. 20."

Upon the filing of this appeal I entered an order on May 25, 1955, staying respondent's order of suspension until the entry of a further order herein. See R. S. 33:1-31.

The petition of appeal alleges in substance that the action of respondent was erroneous because the finding of guilt was contrary to the weight of the evidence.

Pursuant to stipulation, the appeal was presented to me upon the stenographic transcript of the proceedings before respondent, "the exhibits presented at said hearing and the filed

complaints, petitions, notices, orders and answers with the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth and the New Jersey Division of Alcoholic Beverage." Rule 8 of State Regulations No. 15. The case was orally argued before me on September 7, 1955.

The evidence herein shows that the charge was based upon an incident that occurred in appellant's licensed premises shortly before 3:00 a.m. (closing time) on the morning of March 18, 1955. At 2:45 a.m. the licensee told everyone "to drink up." At about 2:55 a.m. appellant approached a patron, identified herein as Peter, and asked him to leave. The alleged act of violence and disturbance concerns only what occurred immediately thereafter between appellant and Peter. No other patrons were involved. Shortly after the incident occurred, Peter walked out of the premises with a friend, identified herein as Frank, and other patrons.

In the latter part of March Peter complained to this Division about the incident and, pursuant to his complaint, ABC agents called at his home on March 31. At that time Peter and his friend Frank gave to the agents signed sworn statements. The statement given by Peter justified the institution of disciplinary proceedings against the licensee. These statements were introduced at the hearing held below and have been considered by me with all the other evidence herein in reaching my decision in this case.

A comparison of the allegations set forth in Peter's statement and his testimony given at the hearing below discloses many discrepancies. Referring to appellant's actions, he says in his statement that he "hooked me under the arm and spun me towards the door;" that he "grabbed me by the throat;" that he said "You G-- D-- wop keep out of here;" that he repeated this kind of talk in a loud and boisterous voice; that "as I was going towards the door he made another lunge at me." At the hearing held below Peter did not testify that appellant grabbed him by the throat or that he made another lunge at him as he was leaving. He did testify that appellant was "a little forceful;" that he was "almost positive" as to the language used by appellant and that appellant was "a little loud and boisterous." It further appears from Peter's testimony that, a few days prior to the hearing held below, he telephoned to appellant, told him that "an apology would be all right" and expressed his desire to withdraw the complaint. Frank alleged in his statement and testified at the hearing that appellant grabbed Peter and "twisted him around" and called him "a dirty wop."

Appellant testified that, when Peter did not leave as requested, he took him by the hand and said, "Come on, Pete, let's go;" that "I would be afraid of him, to grab him by the throat;" that there was no loud or abusive language; that Peter left after a police officer who was making a routine check of appellant's premises had requested him to do so. Appellant's testimony was substantially corroborated by the police officer.

The guilt or innocence of appellant may not be determined herein solely upon the statements given by Peter and Frank. While these statements were admissible under the circumstances of this case, they are not evidential of the happenings mentioned therein. Zimmerman v. Zimmerman, 12 N. J. Super. 61 (A.D. 1950). A review of all the evidence, including the statements, leads me to conclude that appellant did not

use any more force than was reasonably necessary to induce a reluctant patron to leave at the closing hour. While both appellant and the patron, who had been on friendly terms for eight years, may have referred to each other in terms they previously used "when we're kidding one another", the weight of the evidence indicates that the language was not loud or abusive. I find, therefore, that it has not been established by a preponderance of the evidence that appellant allowed, permitted or suffered an act of violence or disturbance on his licensed premises. Hence I must reverse the action of respondent. Cf. Muzyka v. Rahway, Bulletin 396, Item 1; Herzog & Riley v. Newark, Bulletin 879, Item 4; Fuer v. Newark, Bulletin 1073, Item 3.

Accordingly, it is, on this 20th day of September, 1955,

ORDERED that the action of respondent be and the same is hereby reversed.

WILLIAM HOWE DAVIS
Director.

3. APPELLATE DECISIONS - MELLAS v. WEST ORANGE.

SPIROS MELLAS,
Appellant,
-vs-
MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE TOWN OF WEST ORANGE,
Respondent.

ON APPEAL
CONCLUSIONS AND ORDER

David W. Dowd, Esq., Attorney for Appellant.
William E. Kennedy, Esq., Attorney for Respondent.

BY THE DIRECTOR:

Appellant appeals from respondent's action whereby it denied his application for a plenary retail consumption license for 259 Main Street, West Orange.

The petition of appeal alleges that the action of respondent was erroneous because no notification was given to appellant "that a hearing was given on June 28, 1955, by said board in the above matter" and "that in this the decision differed with R. S. 33:1-24." The answer admits that respondent denied the application on June 28, 1955, and alleges that R.S. 33:1-24 does not require that the applicant should be given notice of the hearing at which the application is to be considered.

R. S. 33:1-24 provides, among other things, that

"It shall be the duty of each other issuing authority *** to conduct public hearings on applications ***."

Rules 6 and 7 of State Regulations No. 2 provide that, if a written objection is filed, the other issuing authority must "afford a hearing to all parties and immediately notify the applicant and the objector of the date, hour and place thereof." However, Rule 8 of State Regulations No. 2 provides:

> "No hearing need be held if no such objections shall be lodged [but this in nowise relieves the issuing authority from the duty of making a thorough investigation on its own initiative], or if the issuing authority, on its own motion, after the requisite statutory investigation, shall have determined not to issue a license to such applicant."

In this case it does not appear that any written objections were filed. Appellant's application was considered at a public meeting of respondent held on June 28, 1955, at which time respondent denied the application because of the provisions of R. S. 33:1-12.14. Under these circumstances, the failure to notify appellant of the public hearing did not violate the provisions of R. S. 33:1-24 or State Regulations No. 2. In any event, appellant's rights have been fully protected by this appeal, which was heard de novo. Eana, Inc. v. Pleasantville, Bulletin 1024, Item 2.

As to the merits: Appellant conducts the Llewellyn Hotel at 259 Main Street. It is represented that the hotel has been in existence for more than seventy-five years but it is admitted that it has less than fifty sleeping rooms. Other individuals formerly held a license for these premises but their license was transferred to other premises by respondent herein and said action was affirmed on appeal. Mellas v. West Orange et al., Bulletin 1047, Item 2. The license which appellant now seeks must be deemed to be a new license and not the renewal of an existing license. R. S. 33:1-96. The Town of West Orange had a population of 26,005 according to the 1950 Federal census, and fifty-seven plenary retail consumption licenses have been issued and are now outstanding in the Town.

R. S. 33:1-12.14 (P.L. 1947, ch. 94) provides:

> "Except as otherwise provided in this act, no new plenary retail consumption or seasonal retail consumption license shall be issued in a municipality unless and until the combined total number of such licenses existing in the municipality is fewer than one for each one thousand of its population as shown by the last then preceding Federal census; and no new plenary retail distribution license shall be issued in a municipality unless and until the number of such licenses existing in the municipality is fewer than one for each three thousand of its population as shown by the last then preceding Federal census."

Appellant's application does not come within any of the exceptions set forth in the other sections of P.L. 1947, ch. 94. Since it appears that the Town now has more than one plenary retail consumption license for each one thousand of its population according to the last Federal census, the issuance of a new license is barred by the statute.

At the oral argument held herein the attorney for appellant contended that the Director had discretion in worthy cases to disregard the limitation law. This contention is without merit. The provisions of the law are binding upon the local issuing authority in considering an application and are binding upon me in the case of an appeal.

For the reasons aforesaid, the action of respondent is affirmed.

Accordingly, it is, on this 21st day of September, 1955,

ORDERED that the action of respondent be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

4. ALIENS - HEREIN OF ALIEN NATIONALS OF GERMANY - EFFECT OF AGREEMENT BETWEEN THE UNITED STATES AND THE FEDERAL REPUBLIC OF GERMANY REINSTATING THE 1923 TREATY BETWEEN THE UNITED STATES AND GERMANY.

TO ALL MUNICIPAL ISSUING AUTHORITIES:

The New Jersey Alcoholic Beverage Law (R.S. 33:1-25) prohibits an alien from holding any alcoholic beverage license and prohibits an alien (except in limited instances involving hotels or airports) from owning more than 10% of the shares of stock in any corporate retail licensee. The law (R.S. 33:1-26) further prohibits the employment of any alien upon licensed premises unless such alien has obtained an employment permit from the Division of Alcoholic Beverage Control.

The foregoing provisions of the New Jersey Alcoholic Beverage Law are, however, necessarily superseded in those instances where the United States has entered into treaties with various foreign countries whereby their nationals are afforded the same trade privileges in the United States as our own citizens and, conversely, citizens of the United States are afforded the same trade privileges of nationals of the foreign countries while our citizens are abroad. Accordingly, nationals of those countries are exempt from the above restrictions against aliens. See Re Guskind, Bulletin 130, Item 5; Re McGuigan, Bulletin 228, Item 2; Re Sacks, Bulletin 942, Item 9.

A prior treaty of the type in question had been entered into between the United States and Germany on December 8, 1923. Such treaty was viewed by this Division as having been terminated by reason of the declaration of war between the United States and Germany. Re Londa, Bulletin 693, Item 8. On October 22, 1954 an agreement was entered into between the United States and the Federal Republic of Germany with respect to which this Division has been in communication with the respective governments. According to our most recent advices from the respective governments it would appear that the foregoing agreement of 1954 has the effect of reinstating the previous 1923 treaty to the extent that German nationals present in the United States are now entitled to the same privileges and immunities as are afforded to nationals of other countries with which the United States has reciprocal treaties of a like nature.

Accordingly, it is my view that German nationals will not henceforth be required to obtain employment permits from this Division and are eligible to hold alcoholic beverage licenses and to be stockholders in corporations holding retail licenses notwithstanding their lack of United States citizenship, assuming that they are qualified in all other respects under R.S. 33:1-25.

For convenience, I am herewith setting forth a newly revised complete list of all of the countries with which the United States presently has treaties of the type in question:

Argentina	Finland	Italy
Austria	Germany	Japan
Belgium	Great Britain, including nationals	Latvia
Bolivia	of Scotland and other British	Liberia
Borneo	territory in Europe, but not	Norway
China	including nationals of British	Paraguay
Colombia	territory not in Europe, such	Spain
Costa Rica	as Canada	Switzerland
Denmark	Greece	Thailand
El Salvador	Honduras	Turkey
Estonia	Ireland	Yugoslavia
Ethiopia	Israel	

WILLIAM HOWE DAVIS
Director.

Dated: September 19, 1955.

5. DAYLIGHT SAVING TIME - EXTENDED FOR AN ADDITIONAL MONTH - TO 2:00 A.M. ON THE LAST SUNDAY IN OCTOBER 1955.

Under our former New Jersey Law covering the standard of time (Revised Statutes, 1:1-2.3) we would have changed from Eastern Daylight Saving Time back to Eastern Standard Time at midnight Saturday, September 24th. Under the Law, as amended by Chapter 47 of the Laws of 1955, Daylight Saving Time will continue for an extra month and we will not change back to Eastern Standard Time until 2:00 a.m. on the last Sunday in October -- October 30th.

On the one morning of Sunday, October 30th, there will be no difference at all in the closing hour of licensed places in municipalities with an ordinance fixing the closing hour at midnight or at 1:00 a.m. or at 2:00 a.m. There will be a difference in the closing hour on the morning of Sunday, October 30th, in municipalities with an ordinance fixing the closing hour later than 2:00 a.m. Take a municipality with a closing hour of 3:00 a.m.: At 2:00 a.m. on Sunday, October 30th, the licensees in that municipality will turn their clocks back one hour, and may then keep open for an extra hour -- until the changed clock time reaches 3:00 a.m.

WILLIAM HOWE DAVIS
Director.

Dated: September 23, 1955.

6. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - CLUB ACTING AS FRONT FOR INDIVIDUAL - FRAUD IN APPLICATION - POSSESSION OF QUARTERS NOT CONTINUOUS AND EXCLUSIVE - CLUB NOT BONA FIDE - LICENSE CANCELLED.

In the Matter of Disciplinary Proceedings against

THE CHRISTIAN AID CLUB OF LAWNSIDE
Park Avenue
Lawnside, N. J.,

Holder of Club License CB-2 for the 1954-55 and 1955-56 licensing years, issued by the Borough Council of the Borough of Lawnside.

CONCLUSIONS AND ORDER

Edward J. Bauer, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charges:

"1. In your application dated November 10, 1954, filed with the Lawnside Borough Council, upon which you obtained your current club license, you falsely stated 'No' in answer to Question 29, which asks: 'Has any individual, ...other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?', whereas in truth and fact Robert Trottie had such interest in that he was the real and beneficial owner of the licensed business; said false statement being in violation of R. S. 33:1-25.

"2. From on or about February 15, 1955 until the present time, you knowingly aided and abetted Robert Trottie to exercise, contrary to R.S. 33:1-26, the rights and privileges of your club license; thereby yourself violating R.S. 33:1-52.

"3. In your aforesaid application, you falsely stated 'Yes' in answer to Question 20, which asks: 'Has the club been in exclusive continuous possession and use of club quarters for at least three (3) years immediately prior to this application?', whereas in truth and fact you had not been in exclusive continuous possession and use of club quarters for that period of time; said false statement being in violation of R. S. 33:1-25."

Defendant was also required to show cause why its license should not be cancelled upon the ground that the license had been issued in violation of R. S. 33:1-12(5) and Rule 2 of State Regulations No. 7, because the club at the time of issuance of its 1954-55 club license and prior thereto was not a bona fide club.

It appears from the evidence in the instant case that during the course of an investigation of the defendant-club by ABC agents on April 14, 1955, Annie Trottie gave a signed statement to the effect that she was the president of the club and had been such officer for three years prior thereto; that the club was organized in 1939 or 1940; that her husband, Robert Trottie, was the owner of the building wherein defendant-club was located, which structure has been erected for a period

of about three or four years; that she conducted a tea room in the part of the premises which the club now occupies until December 31, 1954; that the club held monthly meetings in the tea room and, although paying no rent to her, usually made a small donation for the use thereof; that she used the premises in question as a tea room at all other times and that the club had neither exclusive control nor possession of club quarters during the period she operated the tea room; that prior to using the tea room for its monthly meetings, the members of the club met at a clergyman's home for two or three years and prior thereto the meetings were held at the homes of different members.

On April 26, 1955, Annie Trottie again was interviewed by ABC agents and she supplemented her previous statement to the effect that her husband paid for remodeling the building and for the installation of the bar, and also advanced the money for the license; that her husband, aforementioned, takes the money received from the sale of alcoholic beverages; that there has been no profit derived from the business and if at any time a profit should be realized, it will be used to purchase "baskets" for the sick or poor members; that the secretary prepares the minutes of the meetings but that the vice-president, treasurer and financial secretary do not perform any duties for the club.

John T. Love, in a signed statement given to the ABC agents on April 26, 1955, stated that he is treasurer of defendant-club "in name only" as he receives no money, does not keep any books or records of any kind, obtains no reports concerning the club, and, as he expressed it, "I don't know what is going on."

Nelson G. Shaw, recording secretary of defendant-club for the past ten years, in a signed statement given to the ABC agents on April 26, 1955, corroborated the information given by Annie Trottie concerning the lack of exclusive possession of club quarters. He further stated that when the local issuing authority requested "modern minutes" he wrote up the "minutes" for the years 1952 to 1954, inclusive, just prior to the filing of the application for the license in question.

Robert Trottie testified that he had been a member of defendant-club for sixteen years and owns the premises wherein the club is now located; that the club ran social affairs, one in 1945 and some others at times which he could not remember, in order to obtain money for the purpose of assisting the poor and sick; that he was president of the club for nine years but, because of being twice convicted of sale and possession of alcoholic beverages without a license at the premises where the club is now located, he resigned his office when it was decided to apply for a liquor license; that he operated a tea room in the place before the liquor license was issued to the club; that the club moved into the premises on November 5, 1948 and held conferences in a "side" room but held its meetings in the large room for which he received payment of $3.00 a month; that he now obtains $50.00 per month from the club (if it has the money) for the use of the premises and $15.00 a week as wages from the secretary for services rendered to the club; that the club pays the secretary $18.00 a week for her services. The witness further testified that he was present on April 14, 1955 when his wife, Annie Trottie, gave a statement to the ABC agents. He recalled that his wife was asked "Did the club have any special room where it met, which was kept locked or not used by you or anyone else when the club was not using the premises?" and that her answer to the question was "No. It met in this here room where

I had the tea room." When asked whether the aforesaid answer given by his wife was true, he answered in the affirmative.

Defendant produced Annie Trottie, president of the club, as a witness. Although she made some attempt to repudiate both statements previously given by her to the ABC agents, her testimony only slightly contradicted those statements. Furthermore, the greater part of her testimony was concerned with the new arrangement for operating the club which has allegedly been put into effect since the investigation was made which resulted in the charges preferred herein. Other witnesses were also called by defendant and an examination of their testimony disclosed it to be neither clear nor convincing with reference to their membership or the alleged exclusive continuous possession of club quarters.

I am satisfied after careful examination of the evidence presented in the instant case that the club was organized by people for charitable and religious purposes but that now it has become an instrument for the private gain of Robert Trottie. Club licenses, which authorize sale of alcoholic beverages only to club members and their bona fide guests, are issued at a fee substantially less than that chargeable for the plenary retail consumption license which authorizes sale to the general public. The purpose of the law, in authorizing the issuance of club licenses, was to permit bona fide clubs to dispense alcoholic beverages to their members and their guests as a service to those members. It was never intended that the club license should be used by individuals to operate a licensed business for private gain, in competition with other retail licensees who pay a much higher fee. Re Willow Brook Club, Bulletin 518, Item 12.

I find defendant guilty of the charges preferred herein. Furthermore, I am satisfied that at the time the license was issued on February 15, 1955, defendant had ceased to be a bona fide club within the intendment of the Alcoholic Beverage Law. Hence I shall cancel the license now held by defendant.

In view of the result herein, it is unnecessary to fix a penalty for the violations committed as set forth in the charges preferred in the instant case.

Accordingly, it is, on this 26th day of September, 1955,

ORDERED that Club License CB-2, issued for the 1955-56 licensing year by the Borough Council of the Borough of Lawnside to The Christian Aid Club of Lawnside, for premises on Park Avenue, Lawnside, be and the same is hereby cancelled and declared null and void, effective immediately.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE) - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against HOTEL HOLIDAY, INC. T/a HOTEL HOLIDAY Fairview Lake Road from Five Points Corner Stillwater Township PO RD #2, Newton, N. J., Holder of Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Stillwater.	CONCLUSIONS AND ORDER

Hotel Holiday, Inc., Defendant-licensee, by Ida Palma, Pres.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On August 7, 1955, you allowed, permitted and suffered lewdness and immoral activity and conduct in and upon your licensed premises in that female entertainers performed in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulations No. 20."

The file in the within case discloses that ABC agents entered defendant's licensed premises at 11:00 p.m. on August 6, 1955. At 1:00 a.m. on the morning of August 7, 1955, a female called Suzanne, dressed in an evening gown which had a slit down on the left side thereof, engaged in a dance consisting of "bumps and grinds" in time with music. Just before concluding her dance she lowered her body in a prone position so that her hands and toes simultaneously touched the floor and then performed in a manner simulating sexual intercourse. The next female entertainer, known as Rae, began her dance number wearing a gray gown but gradually disrobed until her only attire was a mesh bra and flesh-colored panties. Her dance also consisted of "bumps and grinds" and various suggestive movements of her body.

Performances such as those described herein have no place on licensed premises. Re DiAngelo, Bulletin 753, Item 4.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of 30 days. Re DiAngelo, supra. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 27th day of September, 1955,

ORDERED that Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Stillwater to Hotel Holiday, Inc., t/a Hotel Holiday, Fairview Lake Road from Five Points Corner, Stillwater Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 7:00 a.m. October 3, 1955, and terminating at 7:00 a.m. October 28, 1955.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

HARRY RUDBERG
T/a VICTORY BAR
51 E. Commerce Street
Bridgeton, N. J.,

Holder of Plenary Retail Consumption License C-3, issued by the City Council of the City of Bridgeton.

CONCLUSIONS AND ORDER

Harry Rudberg, Defendant-licensee, Pro Se.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on August 12, 1955, and on divers occasions prior thereto, he sold, served and delivered alcoholic beverages to a minor and permitted consumption of such beverages by said minor in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that on August 22, 1955, ABC agents, on information received from the Bridgeton Chief of Police, obtained a sworn statement from Willie ---, 20 years of age. In his statement the minor alleges that on the evening of August 12, 1955 he "had a shot of Calvert and a beer which I bought from a woman tending bar" in defendant's premises and that he had purchased and consumed alcoholic beverages in defendant's premises on former occasions.

Defendant has no prior record. I shall suspend his license for ten days, the usual penalty imposed for sale to a twenty-year-old minor. Re Brazinski, Bulletin 948, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 19th day of September, 1955,

ORDERED that Plenary Retail Consumption License C-3, issued by the City Council of the City of Bridgeton to Harry Rudberg, t/a Victory Bar, for premises 51 E. Commerce Street, Bridgeton, be and the same is hereby suspended for five (5) days, commencing at 8:00 a.m. September 26, 1955, and terminating at 8:00 a.m. October 1, 1955.

WILLIAM HOWE DAVIS
Director.

9. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

THOMAS C. ARCES
T/a LUCKY CLUB CAFE
4722 Atlantic Ave.
Wildwood, N. J.,) CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-25, issued by the Board of Commissioners of the City of Wildwood.)

Edwin W. Bradway, Esq. and Paul M. Salsburg, Esq., Attorneys for Defendant-licensee.

Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on July 30, 1955, he sold, served and delivered alcoholic beverages to minors and allowed, permitted and suffered the consumption of such beverages by said minors in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that at approximately 3:45 p.m. on Saturday, July 30, 1955, two ABC agents entered defendant's licensed premises and sat at a table. They observed four male youths seated at a nearby table, each drinking a glass of beer. An empty beer pitcher was on the table. Shortly thereafter a young woman and an adult male escort entered and sat at a table near the agents. They overheard this couple order from a waitress (Thelma Crownover) a glass of beer and a drink of Seagram's Gin and Seven-Up. The waitress served the beer to the man and the drink of gin and Seven-Up to the girl. The waitress then went to the table where the four boys were seated and asked them whether they wanted another pitcher of beer. Receiving an affirmative response, the waitress brought a pitcher of beer to the group, whereupon one of the boys poured the beer into four glasses. When the boys commenced to consume this beer, the agents identified themselves and ascertained that the four boys and the girl were minors.

Specifically, the boys are Clifford --- (age 20), James --- (age 18), George --- (age 18), George --- (age 20), and the girl is Helen --- (age 20). Signed sworn statements were obtained from these minors. The substance of the statements of the boys is that they entered the premises at about 3:30 p.m. and each had three bottles of beer and, in addition, consumed two pitchers of beer. The girl in her statement confirms that she had a drink of gin and Seven-Up. Each of the minors states that, when serving all of these alcoholic beverages, Thelma Crownover did not ask any of them his or her age or require any identification.

Defendant has no prior adjudicated record. In view of the fact that five minors were involved, I shall suspend defendant's license for twenty days (Re Bockstein, Bulletin 999, Item 8). Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 19th day of September, 1955,

ORDERED that Plenary Retail Consumption License C-25, issued by the Board of Commissioners of the City of Wildwood to Thomas C. Arces, t/a Lucky Club Cafe, for premises 4722 Atlantic Avenue, Wildwood, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. September 26, 1955, and terminating at 2:00 a.m. October 11, 1955.

WILLIAM HOWE DAVIS
Director.

10. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LOTTERY - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

GEORGE, ALFRED & EUGENE CATTANI
601 Central Avenue & 706 - 6th St.
Union City, N. J.,

Holders of Plenary Retail Distribution License D-5, issued by the Board of Commissioners of the City of Union City.

CONCLUSIONS AND ORDER

George, Alfred & Eugene Cattani, Defendant-licensees, by George Cattani, Pro se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to charges alleging that they (1) sold alcoholic beverages at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulations No. 30; and (2) possessed, had custody of and allowed, permitted and suffered tickets and participation rights in a lottery in and upon their licensed premises, in violation of Rule 6 of State Regulations No. 20.

The file herein discloses as to charge (1) that on August 2, 1955, an ABC agent investigating a complaint that defendants were allegedly selling alcoholic beverages below minimum resale price, entered defendants' licensed premises and asked Alfred E. Cattani, one of the licensees, for a bottle of Duff Gordon Sherry. Cattani inquired whether the agent desired Duff Gordon No. 28 Sherry. The agent asked the price of this sherry and Cattani informed him that the cost was $2.70. The price tag on the shelf beneath this bottle of sherry read $3.00. The agent told Cattani he would buy the sherry, whereupon Cattani placed a bottle of Duff Gordon No. 28 Sherry in a paper bag, received $5.00 from the agent, rang up $3.00 on the cash register and handed the agent $2.30 in change and the bottle of sherry. Another ABC agent entered the premises as the first agent gave the $5.00 bill to Cattani and remained there while the first agent left. The last-mentioned agent joined another ABC agent who was stationed outside the licensed premises and the agents returned immediately thereto.

All of the ABC agents identified themselves to Alfred Cattani and to George Cattani, another of the licensees who appeared on the scene. The agents obtained a signed, sworn statement from Alfred Cattani wherein he admits the sale of the bottle of wine in question for $2.70 and that he was aware that

the correct minimum resale price was $3.00.

Concerning charge (2) the file discloses that while taking the aforementioned statement, an ABC agent observed a book of chances of the Irish Hospital Sweepstakes on the 1955 Cambridgeshire Race on a desk in a rear room of the licensed premises. The book had stubs for six chances sold and six chances remained unsold. George Cattani, in a signed sworn statement claimed that the book had been left with him by an acquaintance in order that George might purchase a chance and return the book, but that George had not as yet purchased one of the chances.

Defendant has no prior adjudicated record. In fixing a period of suspension I shall take into consideration the fact that there is no evidence that any chances were sold on the licensed premises. I shall suspend defendants' license for ten days on charge (1) (Re Weintrob, Bulletin 1070, Item 7) and, under the circumstances of this case, for an additional period of ten days on charge (2). Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 19th day of September, 1955,

ORDERED that Plenary Retail Distribution License D-5, issued by the Board of Commissioners of the City of Union City to George, Alfred & Eugene Cattani, 601 Central Avenue & 706 - 6th Street, Union City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 9:00 a.m. September 26, 1955, and terminating at 9:00 a.m. October 11, 1955.

WILLIAM HOWE DAVIS
Director.

11. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against FLORENCE AGNELLINO T/a JAZZ CITY Cor. of Chelsea Ave. & Ocean Ave. Long Branch, N. J., Holder of Plenary Retail Consumption License C-46, issued by the Board of Commissioners of the City of Long Branch.	CONCLUSIONS AND ORDER

Peter W. Rodino, Jr., Esq., Attorney for Defendant-licensee.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that she sold, served and delivered alcoholic beverages to two minors and permitted the consumption thereof by said minors in and upon her licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file in the instant case discloses that at about 11:00 p.m. on Friday, August 5, 1955, ABC agents observed a bartender serving a bottle of beer to a youth and another bartender serving a bottle of beer to a girl, both of whom appeared to be minors. Upon questioning the aforesaid persons it was ascertained that each was 19 years of age.

Defendant has a prior adjudicated record. Effective April 28, 1952, defendant's license was suspended for thirty-five days as a result of a plea of non vult to (1) permitting use of foul and indecent language by patrons; (2) hostess activity and (3) sale and service of alcoholic beverages to a 19-year-old minor. Re Agnellino, Bulletin 933, Item 2. The minimum penalty for a violation of the kind in the present case, in the absence of aggravating circumstances, is ten days. Cf. Re Marrone, Bulletin 1058, Item 9. However, since the present violation is similar to one of the violations aforesaid and occurred within a five-year period, the penalty will be doubled. Re Golden Gate, A Corp., Bulletin 1052, Item 12. I shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

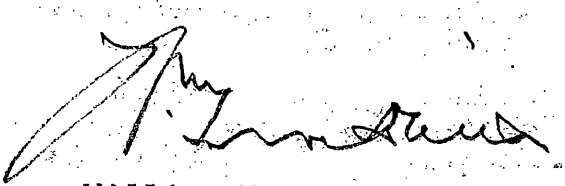
Accordingly, it is, on this 26th day of September, 1955,

ORDERED that Plenary Retail Consumption License C-46, issued by the Board of Commissioners of the City of Long Branch to Florence Agnellino, t/a Jazz City, Cor. of Chelsea Ave. & Ocean Ave., Long Branch, New Jersey, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. October 3, 1955, and terminating at 3:00 a.m. October 18, 1955.

WILLIAM HOWE DAVIS
Director.

12. STATE LICENSES - NEW APPLICATION FILED.

Famous Brands, Inc.
140 - 8th St., & 139 Pavonia Ave., & 143-145 Provost St.,
Jersey City, N. J.
Application filed October 11, 1955 for additional salesroom at 142 Pavonia Avenue, Jersey City, N. J.



William Howe Davis
Director.