

BULLETIN 1052

MARCH 3, 1955.

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

BULLETIN 1052

MARCH 3, 1955.

1. APPELLATE DECISIONS - PEARCE v. MAYWOOD AND MAYWOOD INN CORPORATION.

ROY J. PEARCE,)

Appellant,)

-vs-)

MAYOR AND COUNCIL OF THE BOROUGH
OF MAYWOOD, and MAYWOOD INN
CORPORATION,)

Respondents.)

ON APPEAL
CONCLUSIONS AND ORDER

Joseph H. Gaudielle, Esq., by B. Franklyn Boggia, Esq., Attorney
for Appellant.

Joseph Melillo, Esq., Attorney for Respondent Mayor and Council of
the Borough of Maywood.

Burke, Sheridan & Hourigan, Esqs., by Robert L. Garibaldi, Esq.
and Elvin R. Giordano, Esq., Attorneys for
Respondent Maywood Inn Corporation.

BY THE DIRECTOR:

This is an appeal from the action of respondent Mayor and Council whereby it approved an application to transfer a plenary retail consumption license held by respondent Maywood Inn Corporation from premises 105 Grove Avenue to premises 122 West Pleasant Avenue, Maywood. The license was to be issued at a subsequent date by the respondent Mayor and Council after the completion of a building to be constructed in accordance with plans and specifications allegedly furnished by respondent licensee.

The grounds set forth by appellant in his petition of appeal for the reversal of the action of the respondent Mayor and Council are as follows:

"a. Respondent, Maywood Inn Corp., failed to file plans and specifications for the proposed building as required by State Regulations No. 6 as promulgated by the Division of the Alcoholic Beverage Control Department of Law and Public Safety, as hereinabove mentioned.

"b. Respondent, Borough of Maywood, failed to grant the request of the citizens present at the public hearing in connection with said application for a vote as to their approval or disapproval of said transfer.

"c. The transfer of said license involves an undue hardship and creates traffic hazards and police problems for the citizens of the Borough of Maywood and more particularly for those within the immediate vicinity of the premises to which said license was transferred.

"d. The respondent, Maywood Inn Corp., procured the said plenary retail consumption license and obtained its transfer to the premises in question for the purpose of speculation. The approval of said transfer of the license was arbitrary, capricious and unreasonable and was made without giving consideration to the public opinion of the citizens of the Borough of Maywood, who disapproved the transfer of said license.

"e. The transfer of said license to the site in question aggravates to an appreciable degree the existing concentration of licenses in that area, and said transfer of the license causes the street to which the transfer was made, along a distance of approximately 500 feet, to possess more than 50% of the issued licenses in the Borough of Maywood."

The record herein discloses that by a resolution, dated May 4, 1954, the respondent Mayor and Council denied a former application, made by Cornelius Bowens and Ida Bowens who then held the license in question, to transfer said license from 105 Grove Avenue to 211 West Pleasant Avenue, for the following reasons:

"1. Children would be required to pass in close proximity to the proposed premises on their way to and from school.

"2. Approximately 150 residents of the area objected to the proposed transfer of the license.

"3. A serious traffic condition would result from the transfer of the license to the proposed premises as there are no sidewalks and the street is narrow.

"4. Residential homes in the area would depreciate in value by virtue of the proposed transfer.

"5. The proposed building to which the transfer is requested is inadequate and unsuitable for the purpose."

It was stipulated by the attorney of the respondent Mayor and Council that the membership of the said Mayor and Council was the same when both applications aforementioned were heard and determined.

The distance between the site 122 West Pleasant Avenue and that of 211 West Pleasant Avenue, according to "Street Map, Borough of Maywood," which is marked in evidence as Exhibit A-4, is approximately three blocks, or approximately 1500 feet. Within four blocks of the proposed premises and on the same side of West Pleasant Avenue there are two plenary retail distribution licensees, and one plenary retail consumption licensee with broad package privileges. The premises at 211 West Pleasant Avenue, to which the former licensee made application for transfer, is located at a greater distance from the liquor outlets already in existence on West Pleasant Avenue.

I have carefully considered the evidence presented herein for the purpose of ascertaining the reasons which prompted the respondent Mayor and Council to reach a different result in this case from that reached in the prior case. The reasons given by the respondent Mayor and Council in the Bowens case, with the exception of reason "5" which does not apply in the present case, appear to be applicable to the case now under consideration. Therefore, it is apparent that a different result in the two cases was unwarranted.

Appellant and three witnesses testified that they opposed the transfer of the license to 122 West Pleasant Avenue for reasons similar to those given by the Mayor and Council for denying the prior application filed by Cornelius Bowens and Ida Bowens for premises 211 West Pleasant Avenue. Six other persons were present at the hearing on this appeal and were prepared to testify on behalf of the appellant. It was represented by the attorney for appellant that if these six persons were called as witnesses, their testimony would be substantially the same as that given by the four witnesses who had actually testified, as aforementioned.

Respondent Mayor and Council received petitions, which were admitted in evidence herein, signed by eighty-two persons living in the vicinity of the proposed premises, objecting to the transfer of the license in question. No residents appeared in person or by petition favoring the application.

No one was called to testify on behalf of respondent Mayor and Council. Victor Rivara, President of respondent Maywood Inn Corporation, testified concerning the type of establishment he intended to operate at the proposed premises, namely, a restaurant and cocktail lounge. He further testified that although he visited Maywood on about twelve different occasions, he is not too familiar with the traffic conditions during the daytime, with the children going to and returning from school, and that he "never took notice to the new houses," being constructed in the area.

It is well established that liquor licenses should be issued or transferred when warranted by public convenience and necessity. No real public need for a license at the proposed premises has been shown to exist. Under all the circumstances, I conclude that respondent Mayor and Council abused its discretion and acted in an unreasonable manner in approving this application for transfer.

Since the present appeal is a trial de novo, it is unnecessary to consider any objection made by appellant in his petition of appeal as to the procedure at the hearing held before the respondent Mayor and Council. In view of my finding herein, it is also unnecessary for me to pass upon the question whether proper plans and specifications were filed by respondent licensee at the time it made application for transfer of its license.

The action of respondent Mayor and Council will be reversed.

Accordingly, it is, on this 17th day of February, 1955,

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

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - CADILLAC BAR CORPORATION v. HAMILTON TOWNSHIP (Mercer County) (APPEAL DISCONTINUED).

CADILLAC BAR CORPORATION, trading)
as CADILLAC BAR CORPORATION,)
Appellant,)

-vs-

ORDER OF DISCONTINUANCE

TOWNSHIP COMMITTEE OF THE TOWNSHIP)
OF HAMILTON (Mercer County),)
Respondent.)

-----)
Theodore G. Fitzgeorge, Esq., Attorney for Appellant.
Henry F. Gill, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The attorneys for the respective parties hereto having stipulated to discontinue the within appeal, and no reason appearing to the contrary,

It is, on this 8th day of February, 1955,

ORDERED that the within appeal be and the same is hereby discontinued.

WILLIAM HOWE DAVIS
Director.

3. APPELLATE DECISIONS - PRESTON HENRY, INC. v. WATCHUNG AND COHEN AND ABRAMSON (APPEAL DISCONTINUED).

PRESTON HENRY, INC.,)	
Appellant,)	
-vs-)	ORDER OF DISCONTINUANCE
MAYOR AND COUNCIL OF THE BOROUGH OF WATCHUNG, and SIDNEY COHEN and BEN ABRAMSON, t/a BEL-AIR LODGE,)	
Respondents.)	

 Norman J. Abrams, Esq., Attorney for Appellant.
 Harry W. Herzog, Esq., Attorney for Respondents Sidney Cohen and Ben Abramson, t/a Bel-Air Lodge.
 James W. Hurley, Esq., Attorney for Respondent Borough of Watchung.

BY THE DIRECTOR:

The attorneys for the respective parties hereto having stipulated to discontinue the within appeal, and no reason appearing to the contrary,

It is, on this 9th day of February, 1955,

ORDERED that the within appeal be and the same is hereby discontinued.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE) - HOSTESSES - PRIOR RECORD - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against)	
J. P. J. CORP.)	
517 Paterson Plank Road)	CONCLUSIONS AND ORDER
Union City, N. J.,)	
Holder of Plenary Retail Consumption License C-168, issued by the Board of Commissioners of the City of Union City.)	

 Leo J. Berg, Esq., Attorney for Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On Wednesday night, December 29 and early Thursday morning, December 30, 1954, you allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene conduct in and upon your licensed premises, in that a female entertainer performed in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulations No. 20.

"2. On the occasion aforesaid, you allowed, permitted and suffered females employed on your licensed premises to accept beverages at the expense of or as a gift from customers and patrons; in violation of Rule 22 of State Regulations No. 20."

An examination of the file in the instant case discloses that three ABC agents arrived in the vicinity of defendant's licensed

premises at about 10:00 p.m. on Saturday, December 29, 1954. Two of the agents entered the premises shortly after their arrival and one remained on the outside of the licensed premises. The agents who entered the licensed premises took seats at the rear end of the bar located to the right of the entrance. To the rear of the bar there is a seating arrangement containing tables and chairs and also a raised bandstand extending from the center part of the rear wall of the premises. When the agents entered there were about fifteen males and eight females seated at the bar. A girl called Jeanne, who occupied a stool immediately next to one of the agents, introduced herself to both agents and engaged in conversation with them. At about 10:25 p.m. a female left her place where she was seated at the bar and took a seat next to one of the agents. Jeanne introduced this girl to the agents as Muriel. At about 10:30 p.m. one of the agents ordered drinks for both his fellow agent and himself and when served by the bartender, Jeanne remarked, "Aren't you going to buy me a drink?" The agent consented to buy a drink for Jeanne and immediately the bartender, who apparently overheard the conversation, served a highball to Jeanne and also one to Muriel, taking payment therefor from the money on the bar belonging to the agent. During the course of the conversation that followed, Jeanne pointed out five girls seated at the bar and drinking with various male companions and stated that they were all part of the show scheduled to be put on at a later time. Several of these girls thereafter sang popular songs for the entertainment of the patrons.

At about 11:45 p.m. Jeanne left the bar and about 12:00 midnight appeared on the stage in the capacity of mistress of ceremonies. She referred to the defendant's establishment in a vulgar term and thereafter introduced various performers. At about 12:45 a.m. Jeanne introduced as an exotic dance a female called Laura who was then attired in a full-length gown. Laura danced in a conventional manner for a short period of time, removed her gown displaying two transparent panels and two narrow multicolored panels extending from her waist; her midriff was bare and she wore a bright yellow bra. Laura continued to move about the stage swinging her hips, caressing her legs with her hands and doing bumps and grinds to the beat of the drums. In the beginning the bumps and grinds were executed at a comparatively slow tempo but the momentum increased with the accelerated beat of the drums. Laura removed several panels and her yellow bra so that she was attired in a silver bra and narrow multicolor front panel, a rear panel and abbreviated tights. At this juncture the lights were extinguished and a dark blue spotlight was focused on Laura who continued to caress her legs and execute bumps and grinds to the beat of the drums. The patrons became very noisy, many of whom clapped their hands and shouted, "Go Laura, Go." Laura then removed the two remaining panels and her silver bra so that she was attired only in flesh-colored abbreviated tights and a flesh-colored bra. In this attire, with the dark blue spotlight focused on her, Laura's appearance gave an illusion of nudity. Laura continued to do bumps and grinds with increasing momentum and immediately before the conclusion of her dance she stopped, stood erect and draped her long black hair over her breasts.

It has always been my strict policy and that of my predecessors to emphasize that such performances will not be tolerated on licensed premises. The defendant herein was advised of this policy a short time ago. Re J. P. J. Corp., Bulletin 1047, Item 6. Any licensee who persists in employing entertainment of the type now under scrutiny will ultimately lose the privilege of his license.

Defendant has a prior adjudicated record. On December 28, 1954, I suspended its license for a period of thirty-five days, effective January 3, 1955, after it had pleaded non vult to two charges similar to the charges now under consideration (Re J. P. J. Corp., supra). I was satisfied, at that time, after careful examination of

the facts which resulted in the "hostess" charge, that the entertainer who had accepted drinks from the agents "was not engaged in the practice of 'hustling' the male patrons." I, therefore, imposed a minimum penalty for said violation. The facts in the instant case which form the basis for the "hostess" charge disclose that the female entertainers were permitted to solicit drinks from male patrons in an unrestrained manner. A more severe penalty is therefore warranted for the present "hostess" violation. It appears that because no locus poenitentiae intervened, the present violations will not be considered in the same manner in which second similar violations are ordinarily considered. In order to be considered a second similar violation occurring within a five-year period it must appear that there is an adjudication of guilt followed by punishment, and then, unregenerate, a subsequent violation and adjudication. Rose v. Bellmawr, Bulletin 411, Item 9. The prior record, however, cannot be ignored but must be considered as an aggravation of the present violation. See Drayman, Bulletin 946, Item 2; Re Capestro and Friedlander, Bulletin 1000, Item 9.

Under all of the circumstances appearing herein, I shall suspend defendant's license for a period of sixty days.

Accordingly, it is, on this 7th day of February, 1955,

ORDERED that Plenary Retail Consumption License C-168, issued by the Board of Commissioners of the City of Union City to J. P. J. Corp., 517 Paterson Plank Road, Union City, be and the same is hereby suspended for a period of sixty (60) days, commencing at 3:00 a.m. February 8, 1955, and terminating at 3:00 a.m. April 9, 1955.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 ROSE & DANIEL McCOLLUM
 T/a PEACH ORCHARD INN
 Fire Rd., Farmington
 Egg Harbor Township
 P.O. R.F.D. #1, Pleasantville, N.J.,
 Holders of Plenary Retail Consumption License C-13, issued by the Township Committee of the Township of Egg Harbor.

CONCLUSIONS
AND ORDER

Rose and Daniel McCollum, Defendant-licensees, Pro Se.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendants have pleaded non vult to a charge alleging that they sold, served and delivered alcoholic beverages to a minor, and permitted said minor to consume the alcoholic beverages on their licensed premises, in violation of Rule 1 of State Regulations No. 20.

An examination of the file herein discloses that a minor, 16 years of age, entered defendants' licensed premises around 9:00 p.m. on Friday, December 31, 1954, and remained there until after midnight, during which time he was served and consumed several glasses of beer and, later, a number of glasses of beer and shots of whiskey.

Defendants have no prior adjudicated record. The minimum penalty for a violation of this kind involving a minor as young as 16 years of age is a suspension of the license for twenty days, with

a possible five days' remission for a plea. Re Gordon, Bulletin 906, Item 8; Re Harlem Club, Corporation, Bulletin 964, Item 5. However, in view of the length of time the minor spent on the licensed premises and the number and kind of drinks he consumed, I shall suspend defendants' license for twenty-five days. Cf. Re Theodore's Inc., Bulletin 843, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 14th day of February, 1955,

ORDERED that Plenary Retail Consumption License C-13, issued by the Township Committee of the Township of Egg Harbor to Rose & Daniel McCollum, t/a Peach Orchard Inn, Fire Rd., Farmington, Egg Harbor Township, be and the same is hereby suspended for a period of twenty (20) days, commencing at 7:00 a.m., February 23, 1955, and terminating at 7:00 a.m., March 15, 1955.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against)

M. THOMAS O'BRIEN & JAMES CRONIN)
Fire & Delilah Rd., Farmington)
Egg Harbor Township)
P.O. Rte. 1, Pleasantville, N.J.,)

CONCLUSIONS
AND ORDER

-----)
Holders of Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Egg Harbor.)

M. Thomas O'Brien and James Cronin, Defendant-licensees, Pro Se. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to charges alleging that they sold, served and delivered alcoholic beverages to a minor and permitted the consumption thereof by said minor on their licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file in the instant case discloses that on Saturday morning, January 1, 1955, a minor, sixteen years of age, was sold and served several glasses of beer in defendants' licensed premises.

Defendants allege in mitigation of penalty that the bartender inquired as to the minor's age prior to the service of alcoholic beverages to him and that the minor "presented identification" that he was twenty-five years of age. The minor admits that the bartender in question asked him if he was "twenty-one" and that the minor answered in the affirmative. The minor states that prior to being questioned as to his age, he was served alcoholic beverages by another bartender who made no inquiry whatsoever. I am satisfied that defendants have not established that the minor falsely represented in writing that he was twenty-one years of age or over, as required by R. S. 33:1-77(a).

Defendants have no prior adjudicated record. The tender age of the minor must, however, be considered as an aggravating circumstance in this case. The minimum penalty for sale and service of

alcoholic beverages to a sixteen-year-old minor is a suspension of the license for a period of twenty days. Cf. Re Gordon, Bulletin 906, Item 8; Re Harlem Club Corporation, Bulletin 964, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 14th day of February, 1955,

ORDERED that Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Egg Harbor to M. Thomas O'Brien & James Cronin, Fire & Delilah Rd., Farmington, Egg Harbor Township, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 7:00 a.m. February 23, 1955, and terminating at 7:00 a.m. March 10, 1955.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - SALE DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

MAX & STANLEY WEISBROT)
T/a BROAD & GROVE CLUB)
400 South Broad Street)
Elizabeth 2, N. J.,)

CONCLUSIONS
AND ORDER

-----)
Holders of Plenary Retail Consump-)
tion License C-16, issued by the)
Municipal Board of Alcoholic Bev-)
erage Control of the City of)
Elizabeth.)
-----)

Max & Stanley Weisbrot, by Stanley Weisbrot, Partner.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The defendants have pleaded non vult to charges alleging that they (1) sold at retail an alcoholic beverage at less than the price thereof listed in the currently effective Minimum Consumer Resale Price List, in violation of Rule 5 of State Regulations No. 30; (2) sold, on Sunday, alcoholic beverages at retail in original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that on Sunday, December 5, 1954, an ABC agent entered defendants' licensed premises at about 12:40 p.m. and, observing the bartender therein sell six cans of beer to a patron for off-premises consumption, requested a pint of "Hunter's" to take out. The bartender stated he had no pints but would sell him a quart of said brand for \$5.50. The agent agreed, paid the quoted price for the quart which the bartender put in a paper bag, and handed to the aforesaid patron, telling the agent to "Follow him outside and he will give it to you. There may be someone outside." The agent accompanied the patron for two blocks before receiving the whiskey, after which the patron entered a factory building with his purchase. Joining a fellow agent who had been following, both went into the factory, identified themselves to the patron (an employee therein), seized the canned beer in his possession and returned with him to the tavern where he identified Stanley Weisbrot, one of the licensees, as the person who had participated in the above violations. Stanley, in a signed sworn statement, admitted the sales and the price charged and received for the whiskey. The then current resale price of a quart bottle of "Hunter's" was \$5.55.

Defendants have no prior adjudicated record. I shall suspend their license for the minimum period of ten days on charge 1 (Re Ferraro, Bulletin 1026, Item 7) and for an additional period of fifteen days, which is the minimum suspension imposed for the violation set forth in charge 2 (Re Puzio, Bulletin 1042, Item 4). Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 2nd day of February, 1955,

ORDERED that Plenary Retail Consumption License C-16, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth to Max & Stanley Weisbrot, t/a Broad & Grove Club, for premises 400 South Broad Street, Elizabeth, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. February 10, 1955, and terminating at 2:00 a.m. March 2, 1955.

WILLIAM HOWE DAVIS
Director.

8. ELIGIBILITY - RECEIVING STOLEN GOODS - UNDER CIRCUMSTANCES OF CASE NO MORAL TURPITUDE INVOLVED.

January 26, 1955

Re: Eligibility No. 661

Applicant seeks a determination as to whether or not he is eligible for employment by the holder of a liquor license in New Jersey by reason of his conviction of crime.

In 1946 it appears that applicant was fined \$100.00 in a magistrate's court after being adjudged a disorderly person. The conviction of being a disorderly person is not a conviction of a crime within the meaning of the Alcoholic Beverage Law. Re Case No. 131, Bulletin 451, Item 7 and cases cited therein.

It appears further from the testimony of the applicant that on June 21, 1954 he was convicted in a municipal court of the crime of receiving stolen goods. As a result of said conviction he was fined \$50.00. Applicant testified at the hearing herein that he obtained forty pounds of coffee from two members of the armed forces which coffee had been stolen from the government. He further contended that he accepted the merchandise as security for a loan made to the men.

The crime of receiving stolen goods is not one which, per se, involves the element of moral turpitude. Whether it involves that element depends upon the facts in each case. Although applicant received the merchandise he contends that he was unaware of the fact that the coffee had been stolen. Under the facts in this case I conclude that the element of moral turpitude does not appear to be present.

Under all the circumstances appearing herein, I am of the opinion that applicant is not disqualified, pursuant to R.S. 33:1-25, 26, by reason of the conviction herein described from being employed by or connected with the holder of an alcoholic beverage license in this State. I recommend that he should be so informed.

Clarence E. Kremer
Attorney.

APPROVED:
WILLIAM HOWE DAVIS
Director.

9. ELIGIBILITY - UNLAWFUL POSSESSION OF NARCOTICS - UNDER CIRCUMSTANCES OF CASE NO MORAL TURPITUDE INVOLVED.

February 3, 1955

Re: Eligibility No. 663

Applicant seeks a determination as to whether or not he is ineligible for employment by the holder of a liquor license in New Jersey by reason of his conviction of crime.

In January 1950, applicant pleaded guilty in a Federal Court to an indictment alleging violations of the Marihuana Tax Act, as a result of which he received a one-year suspended sentence and was placed on probation for two years. In the same month applicant was sentenced in a County Court to a one-year term in a county penitentiary upon pleading guilty to possessing narcotics. The sentence was suspended and he was placed on probation for two years and was required to pay costs of court.

Unlawful possession of narcotics, including marihuana, may or may not involve moral turpitude. Where aggravating circumstances appear it has been held that such crime involves moral turpitude. Re Case No. 444, Bulletin 520, Item 10, Re Case No. 402, Bulletin 490, Item 8.

In the instant case, applicant possessed 4 ounces of marihuana which was concealed in the bedroom of his home. Accordingly, he was prosecuted by both the federal and state authorities. The fingerprint returns disclose that applicant has not had any other difficulty with the law. There is nothing to indicate any aggravating circumstances in this case. In the absence thereof, it is my opinion that the aforementioned convictions do not involve the element of moral turpitude. Re Case No. 77, Bulletin 387, Item 9.

It is recommended that subject be advised that, in the opinion of the Director, he is not disqualified by statute because of said convictions from being associated with the alcoholic beverage industry in this State.

APPROVED:
WILLIAM HOWE DAVIS
Director.

Anthony Meyer, Jr.
Attorney.

10. ADVERTISING - CALENDAR NUDES PROHIBITED ON LICENSED PREMISES.

February 14, 1955

Avon Products Co.
Avon-by-the-Sea, N. J.

Gentlemen:

No nudes is good nudes -- at least in New Jersey taverns.

Recent investigation disclosed that you sold a quantity of calendars to Carl Brown, 199 Rose Street, Newark, a number of which depicted nude female figures. Because we have a state regulation prohibiting the distribution of advertising matter which is obscene, indecent, lewd or lascivious, I was compelled to suspend Mr. Brown's liquor license for 5 days. See Re Brown, Bulletin 1052, Item 11.

It occurs to me that you will obviously not win friends and influence people, especially liquor licensees, to purchase your calendars if you continue to sell these objectionable and prohibited poses to them.

To avoid jeopardizing the liquor licenses of your tavern accounts, bear in mind that "calendar art" is out so far as New Jersey liquor licensees are concerned.

Very truly yours,
WILLIAM HOWE DAVIS

11. DISCIPLINARY PROCEEDINGS - POSSESSION AND DISTRIBUTION OF INDECENT PICTURES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CARL BROWN)
 T/a CORNER TAVERN)
 199 Rose Street)
 Newark 8, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption License C-268, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)
 -----)

Greenstone & Greenstone, Esqs., by Herbert E. Greenstone, Esq.,
 Attorneys for Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he permitted upon his licensed premises and had in his possession and distributed and caused to be distributed matter containing obscene, indecent, lewd and lascivious pictures, in violation of Rule 17 of State Regulations No. 20.

The file herein discloses that, upon receipt of specific complaint that defendant had calendars upon his licensed premises depicting nude women, an ABC agent went to the licensed premises on December 21, 1954, and seized twenty-eight such calendars. Among these calendars there were six different individual pictures, the remainder being duplicates. One showed a woman wearing black net hose and elbow-length gloves, but otherwise nude. Each of the others showed a nude woman.

A signed, sworn statement was obtained from defendant's son who is employed as a bartender at the licensed premises. He admitted that the calendars, aforementioned, had been on the licensed premises and that five or ten similar calendars had been distributed, but claimed that he did not know how many such calendars had been purchased.

As was said by the then Commissioner in Re Melchiorre, Bulletin 578, Item 3, "The exhibition of this type of picture upon licensed premises is not conducive to good morals and its display will not be tolerated."

Counsel for defendant appeared before the Director and urged, in mitigation of penalty, that his client did not know that these calendars were not permitted on licensed premises and that, if defendant had been aware of that fact, he would not have permitted them upon his licensed premises.

Defendant has no prior adjudicated record. Under the circumstances I shall suspend the license for a period of ten days. Re Melchiorre, supra. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 7th day of February, 1955,

ORDERED that Plenary Retail Consumption License C-268, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Carl Brown, t/a Corner Tavern, 199 Rose Street, Newark, be and the same is hereby suspended for a period of five (5) days, commencing at 7:00 a.m. February 14, 1955, and terminating at 7:00 a.m. February 19, 1955.

WILLIAM HOWE DAVIS
 Director.

12. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

GOLDEN GATE, A CORP.)
T/a JAN'S GOLDEN GATE)
27-29 South Missouri Avenue)
Atlantic City, N. J.,)

CONCLUSIONS AND ORDER)
SCORE)
M 10)

Holder of Plenary Retail Consumption License C-65, issued by the Board of Commissioners of the City of Atlantic City.)

Golden Gate, A Corp., by John Lesniewski, Pres.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

The file herein discloses that about 9:00 p.m., Friday night, January 14, 1955, ABC agents entered defendant's licensed premises and observed the bartender therein serve alcoholic beverages to two apparently underage civilians seated at the far end of the bar. After the youths had consumed a portion of their drinks, the agents identified themselves and, in the presence of the bartender, interrogated James --- (age 19) and William --- (age 20), who, in sworn statements, related that they are Seamen in the U. S. Navy and had been in the licensed premises since 7:30 or 8:00 p.m., that evening, wherein they consumed seven or eight glasses of beer, served by the bartender who made no inquiry as to their ages.

Defendant has a prior adjudicated record. Effective September 15, 1954, its license was suspended for ten days by the local issuing authority for sale to minors. The minimum suspension for the instant violation is ten days. Re Buttell, Bulletin 1000, Item 2. However, where a defendant has a prior record of a similar violation within a five-year period, the penalty will be doubled. Re Foster's Tavern, Inc., Bulletin 961, Item 8. I shall suspend defendant's license for twenty days and remit five days for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 7th day of February, 1955,

ORDERED that Plenary Retail Consumption License C-65, issued by the Board of Commissioners of the City of Atlantic City to Golden Gate, A Corp., t/a Jan's Golden Gate, 27-29 South Missouri Avenue, Atlantic City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 7:00 a.m. February 14, 1955, and terminating at 7:00 a.m. March 1, 1955.

WILLIAM HOWE DAVIS
Director.

13. DISCIPLINARY PROCEEDINGS - TRANSPORTATION OF ALCOHOLIC BEVERAGES WITHOUT BONA FIDE INVOICES - TRANSPORTATION IN VEHICLE NOT BEARING INSIGNIA - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

FRANCIS DeSTEPHAN)
 T/a CLUB 1900)
 1900 E. Edgar Road)
 Linden, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-13, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden.)
 -----)

Francis DeStephan, Defendant-licensee, Pro Se.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On divers days during the months of November and December 1954, you transported alcoholic beverages in a vehicle without the driver thereof having in his possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill or similar document stating the bona fide name and address of the purchaser or consignee and the brand name or size of the container and quantity of each item of alcoholic beverages being transported; in violation of Rule 3 of State Regulations No. 17.

"2. On the occasions aforesaid, you transported alcoholic beverages in a vehicle having no transportation insignia affixed thereto in accordance with Rule 11 of State Regulations No. 17; in violation of Rule 2 of State Regulations No. 17."

The file in the instant case discloses that during the months of November and December 1954, the defendant used his automobile to deliver a total of thirty cases of assorted alcoholic beverages to a purchaser in a nearby municipality. The deliveries were made on different days during the months aforementioned in two or three case lots. The defendant when making the deliveries did not have in his possession bona fide invoices, delivery slips or manifests containing the information required by Rule 3 of State Regulations No. 17. Furthermore, the motor vehicle in which the alcoholic beverages were transported bore no transit insignia required by Rule 2 of State Regulations No. 17.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of fifteen days. (Re Liquor Fair, Inc., Bulletin 1013, Item 8). Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 14th day of February, 1955,

ORDERED that Plenary Retail Consumption License C-13, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden to Francis DeStephan, t/a Club 1900, 1900 E. Edgar Road, Linden, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. February 16, 1955, and terminating at 2:00 a.m. February 26, 1955.

WILLIAM HOWE DAVIS
 Director.

14. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MRS. BENEDICTA SZADKOWSKI)
Port Au Peck Avenue)
Oceanport)
P.O. Long Branch R.F.D., N.J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Borough Council of the Borough of Oceanport.)
-----)

Sidney Alpern, Esq., Attorney 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 she sold, served and delivered alcoholic beverages to a minor and permitted the consumption of such beverages by said minor in and upon her licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that on January 11, 1955 ABC agents entered defendant's licensed premises and observed two persons consuming beer at the bar therein. The agents made known their identities and obtained a signed sworn statement from Kenneth --- (age 19), relating that he and his adult companion were each served a glass of beer by the barmaid without being questioned as to his age. The barmaid volunteered a statement in which she identified herself as the licensee herein and admitted the aforesaid violation.

Defendant has no prior adjudicated record. I shall suspend her license for ten days (the minimum penalty for a violation of this kind involving a 19-year-old minor). Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Powers, Bulletin 1033, Item 2.

Accordingly, it is, on this 14th day of February, 1955,

ORDERED that Plenary Retail Consumption License C-7, issued by the Borough Council of the Borough of Oceanport to Mrs Benedicta Szadkowski, Port Au Peck Avenue, Oceanport, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a. m. February 21, 1955, and terminating at 2:00 a m. February 26, 1955

WILLIAM HOWE DAVIS
Director.

15. RETAIL LICENSEES - ADVERTISING - PRACTICES UNDULY DESIGNED TO INCREASE CONSUMPTION - "WOODEN NICKELS" DISAPPROVED.

February 8, 1955

Dear Sir:

I have your recent letter in which you identify yourself as a supplier of specialties.

You ask, in effect, whether taverns and liquor stores in New Jersey may distribute free to their patrons or to the public small discs, 1 1/2" in diameter, denominated "Wooden Nickel" on one side and bearing the name and address of the retail liquor licensee on the other, with such "wooden nickels" to be redeemable in merchandise at the tavern or liquor store.

Shades of the U. S. Mint and Treasury Department! I'm curious as to why you have overlooked the tin dime, the plugged nickel and the proverbial bad penny. Unless, of course, in sticking to "wooden nickels", you want to be in keeping with the trade and use only coinage that's "aged in the wood".

In any event, bypassing for the moment various regulations which might be violated in one aspect or another by your plan (for example, Rule 20 of State Regulations No. 20 and Rule 5 of State Regulations No. 30), such plan is clearly, in the words of the Alcoholic Beverage Law, R. S. 33:1-39, a scheme "unduly designed to increase consumption of alcoholic beverages" by seeking to attract patronage into the liquor establishments through these redeemable tokens. Hence, your plan, in toto, is necessarily disapproved.

You next ask whether the tavern or liquor store may issue these "wooden nickels" merely as an advertising device without any redemption value. Although technically this might be done, I take a dim view of the matter. Even though allegedly to have no redemption value, almost inevitably the establishment issuing these "wooden nickels" would seek, in one way or the other, to give them some sort of redemption value in order to add "spice" to the alleged advertising plan.

Following an old injunction, my advice to the alcoholic beverage trade is that they should give out no "wooden nickels", and should certainly take none.

Very truly yours,
WILLIAM HOWE DAVIS
Director.

16. RETAIL LICENSED PREMISES - PRACTICE OF PREPARING INCOME TAX RETURNS AT TAVERNS OR LIQUOR STORES DISAPPROVED.

January 26, 1955

Gentlemen:

In your recent letter, in which you identify yourself as a retail liquor licensee, you raise question as to whether a tavern or liquor store should be permitted to engage in the practice of preparing income tax returns for members of the public.

I agree with your view and so, I am sure, do the great majority of retail liquor licensees. Like you, I can see no point in overdoing the function of a tavern or liquor store. They can hardly be called an appropriate place for any practice of preparing income tax returns for the public, whether the services be furnished free or at a charge. They are not designed as or intended to be accountants' or tax experts' offices.

Everyone hopes for "tax relief". But I don't believe this relief should be in the form of bending over a tavern bar while the tavern is preparing the patron's return, or in the form of a purchase of a bottle while the liquor store is conning over the return. In my view, it would be a disservice to the public interest and to the cause of sound liquor control (and possibly to the weary income tax officials) to have establishments in the state where a patron may order up "one income tax return" with a shot or a bottle as a chaser.

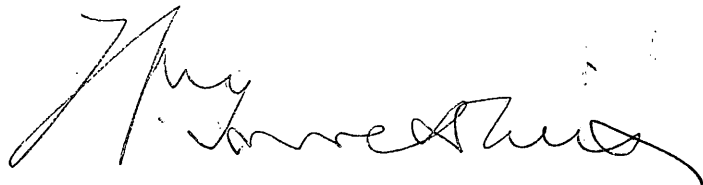
Maybe all this is intended as a method of "painless extraction" for the patron; but it's also too closely tied in with the self-evident possibility that the services are being furnished to help keep the cash register jingling on liquor sales.

In net, I thoroughly disapprove of taverns or liquor stores engaging in, or installing someone at their licensed premises to engage in, the practice of preparing income tax returns for patrons or members of the public, whether gratuitously or at a fee. Let retail licensees be guided accordingly.

Very truly yours,
WILLIAM HOWE DAVIS
Director.

17. STATE LICENSES - NEW APPLICATION FILED.

William Robert Shaiman
5-7 Newcomb Place, Elizabeth, N. J.
Application filed February 25, 1955 for transfer of State Beverage Distributor's License SBD-32 from Anton Amon & Winfield A. Gunther, t/a Rahway Bottling Works, 56 West Main Street, Rahway, N. J.



William Howe Davis
Director.