

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

BULLETIN 1413

OCTOBER 9, 1961

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1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(MAKING ARRANGEMENTS FOR ILLICIT SEXUAL INTERCOURSE) - OBSCENE
LANGUAGE AND CONDUCT - UNQUALIFIED EMPLOYEE - LICENSE SUSPENDED
FOR 75 DAYS.

In the Matter of Disciplinary)
Proceedings against)

Cozy Circle, Inc.)
43-A Branford Place)
Newark 2, New Jersey)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption)
License C-732 (for the 1960-61 and)
1961-62 licensing years), issued by)
Municipal Board of Alcoholic Beverage)
Control of the City of Newark.)

ORDER

Joseph A. D'Alessio, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant has pleaded not guilty to the following charges:

- '1. On March 8, 15 and 17, 1961, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of overtures and arrangements for illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20.
- '2. On March 8, 1961, you allowed, permitted and suffered foul, filthy and obscene language and conduct in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20.
- '3. On March 17, 1961, and prior thereto, you employed and allowed, permitted and suffered the employment in and upon your licensed premises of a person who was not a bona fide resident of the State of New Jersey; contrary to and in violation of Rule 4 of State Regulation No. 13.'

"The testimony of Agent R discloses that at 8:30 p.m. on March 8, 1961, he and Agent G entered defendant's licensed premises and that John Kelly (hereafter Kelly), president of defendant corporate-licensee, and Fred Ciciola (hereafter Ciciola), were tending bar. At 9:15 p.m. he and his fellow-agent entered into conversation with a female patron called Dolores, which continued until 10:30 p.m. when she left them and sat with a man called Vince who had come into the premises. After consuming a couple of drinks, Dolores threw her arms around Vince and kissed him and when admonished by Vince for her conduct, she sat back on her stool and lifted her dress to her waist thereby exposing her panties. Kelly tapped Agent R on the arm

and said, 'Look at that' and the agent, Kelly and Ciciola laughed at the display. Dolores used filthy language during a conversation with a male patron and when Ciciola asked her whether she would resume sitting with the agents, she used a filthy and obscene expression in refusing to do so. Ciciola then told the agents that she was getting loud and that nothing could be done with her. Shortly after 11:00 p.m., Agent R told Ciciola that Dolores said that on Friday night she would engage in sexual intercourse with them for ten dollars and because of her actions he was undecided whether she would keep the appointment. Ciciola said she would be at the premises, as did Kelly when he was told by the agent about the Friday night date with Dolores.

"The testimony of Agent R further discloses that at 9:00 p.m. on March 15, 1961, he, Agent G and Agent Rly arrived in the vicinity of defendant's premises and that Agents R and G entered immediately, but that Dolores was not in the place. While serving a drink to the agents, Kelly said, 'I spoke to her (Dolores) Sunday and she said she forgot all about it. She was drunk.' Thereafter, when Ciciola went on duty as bartender, the agents inquired of him if he had seen Dolores, he said, 'No, but Kelly tells me he spoke to her Sunday and she forgot all about it. She got so drunk that night that she was falling all over the floor after you guys left.' About 10:15 p.m., Ciciola pointed at a female seated on the other side of the bar from where the agents sat and said, 'Why don't you try to make that one over there? That's good.' Agent R asked whether she was with the man seated next to her and Ciciola said, 'No, she's not. You listen to me, I won't steer you wrong.' Agent G instructed Ciciola to serve the girl in question a drink and after she consumed it, she left the premises. Ciciola walked over to the agents and said, 'She's been here since four o'clock. You guys should have went over and sat with her.' In answer to Agent R's inquiry about the marriage status of the female and if 'she was a lay broad', Ciciola said that she and her husband were separated and that she would engage in illicit sexual relations but not to tell her that he had given said information to the agents. At 10:30 p.m. a blonde female (later identified as Millie) entered the premises and Ciciola told the agents, 'There's one. She's a money broad' and 'It's up to you, Jerry', (meaning Agent R). Agent R asked what she charged and Ciciola replied, 'I don't know. Why don't you go over there and sit next to her?' The agents walked around the bar and Ciciola transferred their drinks and placed them on the bar next to Millie, saying, 'Millie, these are two nice gentlemen', and walked away. Thereafter, Agent G said to Ciciola, 'Freddie, you gave us two bum steers. This girl didn't even want to talk', and Ciciola said, 'No, there's something wrong. I'll find out and let you know.' A short time later as Ciciola tended bar about three or four feet from the section where Millie and the agents were seated, Agent R asked Millie what she liked to do and she answered, 'I like to go out and eat and go out with boys and I like to do what comes naturally when I'm out with boys.' In response to Agent R's question as to how much she charged she said, 'That would be ten dollars apiece', saying further, 'I'll try and get another girl. If not, I'll take care of both of you, but one at a time.' Millie said that she didn't want to do anything that night but agreed to meet the agents on Friday night in defendant's premises. She asked Agent R to verify with Ciciola if she would be there on Friday and when Agent R asked him, Ciciola said, 'Yes, she'll be here.' Millie and Agent G left the premises and about twenty minutes thereafter Agent G returned. As Agents R and G were leaving Agent R said, 'Hey, Freddie, she wants ten dollars apiece', and Ciciola said, 'I guess it's better than throwing it away on the horses; at least this way you get something for your money.' A patron stated, 'She's a ten-dollar broad', at which Ciciola nodded his head and smiled as the agents left the premises.

"Agent R testified that at 8:30 p.m. on March 17, 1961, he and Agents G, Rly, D and S arrived in the vicinity of defendant's premises and that he (Agent R) had in his possession three five-dollar bills and five one-dollar bills, the serial numbers of which had previously been recorded on a slip of paper. Agent R's testimony further disclosed that Agent Rly entered the premises immediately upon their arrival and that at 8:35 p.m. he and Agent G entered. Millie was seated at the bar and he and Agent G took seats 'just to her right' and Kelly, who was tending bar, mentioned that he had seen Dolores. Ciciola came into the premises and when he saw Millie with the agents said, 'See, I told you she'd be here.' While Ciciola was in their immediate vicinity, Agent R offered to give the money to Millie, but she suggested that it be given in the car. About 9:10 p.m. the agents and Millie prepared to leave the premises and Agent G asked Ciciola if he had 'any rubbers' and Ciciola said that he would have to get them in a drug store. Agent G asked Ciciola if Millie was 'clean' and he said, 'I don't know. I have never been there.' As the agents and Millie left, the agents said that they would see them later and both Kelly and Ciciola shouted, 'Okay, fellows.'

"Agent R further testified that Agent G and Millie got into Agent G's car and drove to her apartment where he entered with Millie while Agent G remained outside. When inside the apartment Millie took off all her clothes with the exception of a half slip and reclined on the bed. At 9:35 p.m. the doorbell rang and when he opened the door, Agents G, D, S and two local detectives entered and in response to a request, Millie took the 'marked' bills from her pocketbook and gave them to the officers. The agents, the two detectives and Millie returned to defendant's premises and he (Agent R) identified himself to Ciciola and Kelly who both denied that they knew anything about Millie. Kelly, when questioned about the action of Dolores said, 'Yes, she was a little out of order but I tried to check it.' During the investigation, Joseph White, a musician, was found to be employed although he was a non-resident and had no employment permit.

"It was stipulated by the attorneys for the respective parties that the testimony of Agent G, if interrogated by the attorney appearing for the Division, would be similar to and corroborate the testimony given by Agent R. Agent G was cross-examined at length by the attorney for the defendant and the testimony of the events which happened on the dates in question was substantially similar to that given by Agent R.

"Agent Rly testified that on March 17, 1961 at about 8:30 p.m. he entered the defendant's licensed premises and sat 'at the near end of the bar with my back roughly to the entrance.' Kelly was tending bar and, including Millie, there were about 28 persons present. At 8:50 p.m. he left the place but returned at 9:10 p.m., at which time he saw Millie and Agents R and G 'putting on their coats ready to leave'. About 9:50 p.m. the said agents, Millie and Agent S came in and at 10:15 p.m. Agent S left with Millie, whereas the other agents left about 10:30 p.m. Thereafter, while Kelly and Ciciola stood directly in front of him, Kelly said to Ciciola, 'Don't worry about anything; Tony will buy our way out of this mess', and then Kelly spoke to a female called Rose saying, 'From now on you're going to have to be careful who you hustle in here.'

"Agent S testified that on March 17, 1961 after contacting the police, he proceeded to the defendant's premises, re-entering at about 9:05 p.m., and he saw Agents R and G and Millie leave the premises and enter Agent G's automobile. He further testified that he and the police officers followed Agent G's car and when it ultimately stopped, Agent R and Millie left the car and entered a

building; that he found Millie's apartment where he observed Millie attired only in a half slip. (The attorney for defendant admitted that the money given to Millie by the agent was found on her in the room).

"John Kelly (president of defendant corporate-licensee and majority stockholder) testified that he remembered Agents R and G being in his establishment on the evening of March 8, 1961, and he thought Dolores was there on that date, but that he paid no attention to her other than to serve her 'a few drinks'. He testified that he was positive she did not 'yell or use profane language'. Kelly stated he was not sure whether a man called Vince was there on March 8th or 15th, and could not recall any incident concerning Vince and Dolores. Although he recalled seeing the two agents about 9:30 p.m. on March 15th, he did not speak to them about Dolores. He testified he neither saw Millie that night nor did he see the agents in conversation with any women. At 8:30 p.m. on March 17, 1961, he saw Agents R, G and Millie, but he did not converse with them or hear any conversation between the agents and Millie. Further, he said he knew nothing about a date the agents had with Millie. He remembered that at 10:30 p.m. the agents and others came into the premises and one agent identified himself, but that he (Kelly) did not know what it was all about. He stated that he did not recall seeing Agent Rly in the premises on that night and that he never made the remark to Ciciola about not worrying because Tony would 'buy our way out of this mess'. On cross-examination Kelly said he remembered the agents saying they had a date with Dolores and telling them she was not around. He explained that he employed Joseph White as a piano player through the union and was not aware he was a non-resident.

"Fred Ciciola testified that on March 8th Agents R and G were in defendant's premises but he did not know if a girl was engaged in conversation with them. He said he observed a girl seated near the agents leave her seat and join a person at the end of the bar and 'around 10:00, 10:30' she asked him to call a cab for her. On March 15th when Agent R asked him about making a date with Millie, he told the agent, 'I don't have nothing to do with that.' He denied hearing any of their conversation between Millie and the agents. He said Agent G left to get his car and upon his return the agents and Millie went out together. On March 17th, according to Ciciola, when he came into the premises he saw one of the agents sitting with Millie and that neither agent spoke to him about her nor did he hear any of their conversation because the place was noisy. He remembered Agent G asking him if he had 'any rubbers' and he told them they 'don't keep anything like that around here' and then asked the agent, 'Where would you expect to get rubbers? Where would you get cough medicine?' and then told him, 'A drug store.' He testified that the agent never said he had a date with Millie to engage in intercourse or to pay her money and that he knew nothing of their plans until they came back to the premises. He further stated that he never knew anything about Millie's morals, and on March 8th he did not see Dolores lift her dress or hear her use profanity.

"Millie testified that at 8:45 p.m. on March 15th she entered defendant's premises and sat at the bar and ordered a drink of soda from Ciciola and about five minutes thereafter two men (Agents R and G) asked her to join them. She said she told them, 'No, I'm sitting right here', but within a few minutes the agents walked to where she sat and Agent R sat down beside her. Agent R said, 'This is Rudy and I'm Jerry', and then offered to buy a drink for her which she refused. Agent R asked her what she liked to do and she said, 'I like to listen to good music in here and doing what comes naturally and dancing like that to the music.' She said that both agents offered to take her out but

she declined because she had to get up early the next morning to go to work and when Friday was mentioned by one of the agents as being St. Patrick's Day, she told them she would be at the premises to listen to the band. She denied that anything was said about sexual relations. She further testified that at 8:40 p.m. on Friday, March 17th, she visited defendant's premises and while seated with a male friend, Agents R and G came into the place and stood behind them and laughed and cracked jokes. After her male companion became peeved and walked out of the place, the agents said they were sorry and offered to buy her a drink which she refused. She further stated that neither Ciciola nor Kelly asked her to solicit the agents for immoral purposes or were Ciciola and Kelly ever told in her presence by the agents that she agreed to engage in illicit sexual intercourse with them.

"I have set forth at length the pertinent testimony presented herein. Insofar as Kelly is concerned, I am satisfied that he was aware that there were women patronizing the licensed premises who would enter into arrangements to engage in immoral activities. It appears that he did nothing to prevent the existence of this unlawful condition by forbidding the continuance thereof. Insofar as Ciciola is concerned, there is no question in my mind that he knew that Millie could be prevailed upon to engage in sexual intimacies. Were it established to my satisfaction that either Kelly or Ciciola had actually procured Millie to engage in sexual intercourse with the agents, I would without hesitation recommend that defendant's license be revoked. Re Merjack Corporation, Bulletin 998, Item 1, and cases cited therein. However, in the absence of absolute proof, a lesser penalty is warranted. I am satisfied that the agents gave a true description as to what occurred on March 8, 1961 in that Dolores continuously used offensive language and displayed her under garment and although Kelly and Ciciola were on duty in defendant's premises, neither made any effort whatsoever to make her discontinue such conduct. Defendant has not contested the charge that a non-resident was employed as a musician without obtaining the proper permit from the Division to be so employed. I recommend that an order be entered adjudging defendant guilty of the three charges preferred herein. I further recommend that its license be suspended on Charge 1 for sixty days (Re Club Windsor, Inc., Bulletin 1269, Item 1); on Charge 2 for ten days (Re Spillane, Bulletin 1259, Item 7), and on Charge 3 for five days (Re Freud & Pittala, Bulletin 1142, Item 9), making a total suspension of seventy-five days."

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

Having carefully considered the record herein, including the transcript of the proceedings and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendations. Hence, I find the defendant guilty as charged.

Accordingly, it is, on this 14th day of August 1961,

ORDERED that Plenary Retail Consumption License C-732, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Cozy Circle, Inc., for premises 43-A Branford Place, Newark, be and the same is hereby suspended for seventy-five (75) days, commencing at 2:00 a.m., Monday, August 21, 1961 and terminating at 2:00 a.m., Saturday, November 4, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AS NUISANCE (HOMOSEXUALS) - VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 75 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

First Circle Inn, Inc.)
t/a First Circle Inn, Inc.)
N side Admiral Wilson Blvd. 75')
NW of Airport Traffic Circle)
Pennsauken Township)
PO Merchantville, N. J.,)

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption License C-8, issued by the Township Committee of Pennsauken Township.)
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Defendant-licensee, by William Bogatin Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On June 24, July 1, 8, 14 and 15, 1961, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered persons who appeared to be homosexuals, e.g., males impersonating females, in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.

"2. On Saturday, July 15, 1961, at about 1:00 A.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., a pint bottle of Seagram's Seven Crown American Blended Whiskey, at retail, in its original container for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverage in its original container from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

On June 24, 1961, at approximately 12:45 a.m., ABC agents entered defendant's premises and found thirty-five male patrons and one female. Approximately thirty of the males were apparent homosexuals; they walked with a swish of the hips, characteristically female; spoke in a lispy tone; held their beverage glasses with a limp-wrist manner and assumed the behavior characteristics of females. They frequently rubbed each other's cheeks, freely pinched the buttocks of their companions, and intimately embraced each other. The agents spoke to a bartender known as Les (later identified as Wesley Davis) who issued the following greeting, "Welcome to the tower of love."

The same ABC agents revisited the licensed premises on July 1, 1961, at 9:40 p.m., and spoke to Les and Bill (later identified as William Bogatin, the owner of 98% of the corporate stock). They noted that there were at least five apparent homosexuals being served and, upon inquiry, were told that "Some of (the kids) might be in later. I think most of them are all at the shore." Significantly, no women were present at any time during this visit.

The ABC agents revisited the licensed premises on July 8, 1961, at about 9:30 p.m., and found Les and two unidentified bartenders serving six apparent homosexuals and six other patrons. There were no women in the bar.

On July 14, 1961, at 11:30 p.m., the same ABC agents revisited these premises and observed Bill and Les serving drinks to twenty male patrons, eighteen of whom were unmistakably homosexuals. During this evening it was noted that, of a total of thirty patrons served by the bartenders, twenty-nine appeared to be homosexuals. No women were present at any time during this visit. The agents observed that Bill made sales of alcoholic beverages for off-premises consumption to various patrons after the time proscribed by Rule 1 of State Regulation No. 38. At 12:50 a.m. Agent S purchased a pint of Seagram's whiskey from Davis, who placed the bottle in a paper bag which was taken by the agent to his car. At about 1:40 a.m. on July 15 the agents identified themselves, and Davis orally admitted making the above sale. Davis and Bogatin were then questioned about the type of operation which attracted these homosexuals. Davis verbally admitted that he had been employed in these premises for nineteen years under three owners, and that this had been a hangout for sexual deviates for more than ten years. Bogatin stated, "I bought a queer joint and I don't deny it. It was only a matter of time and I was lucky to get away with it for five years."

Defendant has a prior adjudicated record. Effective June 15, 1953, its license was suspended by the Township Committee of Pennsauken Township for thirty days for (1) sale of alcoholic beverages to minors, and (2) permitting females at a public bar in violation of a local ordinance. I have carefully considered the contents of a letter signed by William Bogatin on behalf of the corporate licensee, in which he states that he has now consented to a transfer of the license to a group "who will move it to a new bar and motel to be erected soon." The new owners will, of course, have to assume the penalties here imposed for the balance thereof if a transfer of the license is granted to them. I shall suspend defendant's license on Charge 1 for sixty days (Re Murphy's Tavern, Inc., Bulletin 1374, Item 2), and on Charge 2 for fifteen days (Re Royal Room, Inc., Bulletin 1388, Item 8). Since the dissimilar violations occurred more than five years ago, they will not be considered in fixing the penalty herein. Re Ceresnak, Bulletin 1389, Item 6. Hence, I shall suspend defendant's license for a period of seventy-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of seventy days.

Accordingly, it is, on this 14th day of August 1961,

ORDERED that plenary retail consumption license C-8, issued by the Township Committee of Pennsauken Township to First Circle Inn, Inc., t/a First Circle Inn, Inc., for premises on N side Admiral Wilson Blvd. 75' NW of Airport Traffic Circle, Pennsauken Township, be and the same is hereby suspended for seventy (70) days, commencing at 2 a.m. Tuesday, August 22, 1961, and terminating at 2 a.m. Tuesday, October 31, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - UNQUALIFIED EMPLOYEE - HOSTESS - CHARGE ALLEGING ASSAULT UPON INVESTIGATOR DISMISSED - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against Catherine Pintozi t/a Paper Doll Club S.E. Corner Rt. 46 and Contant Avenue Lodi, New Jersey

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption License C-27 (for the 1960-61 and 1961-62 licensing years), issued by the Mayor and Council of the Borough of Lodi.

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

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The following charges were preferred against the defendant:

- 1. On March 24 and 25 and prior thereto, you knowingly employed on your licensed premises and had connected with you in a business capacity in the conduct and operation of your licensed business Anthony Barresi, a person who would fail to qualify as a licensee under the Alcoholic Beverage Law in that he was president and owner of 50% of the stock of Great Arrow Investment Corp. when a plenary retail consumption license held by that corporation for premises Route 46 and Frederick Street, Little Ferry, New Jersey was revoked by the Director of the Division of Alcoholic Beverage Control, effective May 10, 1960; in violation of R.S. 33:1-26.
2. On March 25, 1961, you allowed, permitted and suffered in and upon your licensed premises acts of violence, viz., assaults and batteries upon the person of Anton B---, an Investigator of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey by Anthony Barresi, a person employed on your licensed premises and connected with you in a business capacity in the conduct and operation of your licensed business, as aforesaid; in violation of Rule 5 of State Regulation No. 20.
3. On March 22, 24 and 25, 1961, you allowed, permitted and suffered a female employed on your licensed premises, known as Dorothy Myles, to accept beverages at the expense of and as a gift from customers and patrons; in violation of Rule 22 of State Regulation No. 20.

- '4. On March 22, 24 and 25, 1961 and prior thereto, you employed and allowed, permitted and suffered the employment in and upon your licensed premises of a person, viz., the aforementioned Dorothy Myles, who was not a bona fide resident of the State of New Jersey; contrary to and in violation of Rule 4 of State Regulation No. 13.'

"Defendant pleaded non vult to Charges 3 and 4 and not guilty to Charges 1 and 2.

"On March 22, 24 and 25, 1961, Dorothy Myles (hereinafter Dorothy), an entertainer employed by the defendant, accepted drinks from and at the expense of patrons, including an ABC agent in defendant's licensed premises. Furthermore, said Dorothy, although employed by defendant, was a non-resident of New Jersey and had not obtained a permit to be so employed.

"Agent S's testimony is that at 10:00 p.m. on March 24, 1961, he, Agent B and Agent Sp arrived in the vicinity of defendant's licensed premises and Agent Sp entered, followed about fifteen minutes thereafter by himself and Agent B. Among the forty-five male and female patrons in the establishment, he observed a man who was subsequently identified as Anthony Barressi, and also Dorothy, defendant, and her husband, Joseph Pintozzi. Barressi was seen standing near the private office located about six feet from the entrance to the parking lot and, on occasion, he conversed with waitresses 'nodding with them affirmatively or negatively' as they entered the door to the office while carrying empty trays or trays upon which were empty glasses. On several occasions, he was observed answering the telephone and, on one occasion, entered the office with a female and two males who were carrying what appeared to be bowling bags. Thereafter, Barressi, followed by the aforementioned persons, came out of the office, proceeded to the bar where he purchased a drink for each of his companions. He also purchased a drink for two female friends and 'no mention of any money was made nor was a check made out or added on the customers' original checks'. At one time the drummer (a member of the band) invited a female in the audience to sing and, after she had rendered several selections, the drummer, in a spirit of jest, opened the cash register, grabbed a handful of change and made a gesture as if paying the performer for her services. As he did this, he looked at Barressi, who was with the two females aforementioned, and said, 'I'm sorry, Tony. I didn't see you standing there'. At 12:25 a.m., after Dorothy had accepted a drink at his (Agent S's) expense, he seized the drink and identified himself to her. He, Agent B, Agent Sp and Dorothy entered the private office followed by Barressi. Others who came into the room were the defendant, Joseph Pintozzi, two police officers, the bartender who had served Dorothy, and her male escort. Agent S stated that he asked Barressi if he was the boss and he said he was not but was 'just a friend'. Agent B then ordered Barressi to leave the room and Barressi made a lunging motion as if to strike him when one of the police officers intervened, escorted Barressi from the office and closed the door. Agent Sp and then Agent B left the office to make a routine inspection of the bar and he (Agent B) closed the door behind him. While questioning the persons in the office, among whom were the Pintozzis, he (Agent S) heard 'a bang toward the door' and when he hurriedly opened it, Agent B stood in the doorway and, pointing at Barressi, said, 'This man assaulted me'. Barressi was standing opposite him with about seven males nearby. Thereafter, Agent S questioned Joseph Pintozzi about 'possible ownership of Mr. Barressi', but Pintozzi denied that Barressi had any interest in the establishment or that he was an employee of the defendant. He (Pintozzi) further stated that Barressi had acted as a booking agent for the Garden State Entertainment Enterprises in supplying the entertainment, and that the

entertainers included Dorothy, who paid Barressi five per cent of her earnings.

"Agent B corroborated the testimony of Agent S regarding Barressi's conduct on the night in question while in the defendant's premises. Agent B further testified that when he left the office and entered the barroom, and while in the process of closing the door, 'Barressi made a purposeful jab with his elbow into my right side'. Furthermore, Agent B said that as he attempted to walk around Barressi, the latter directed filthy remarks at him and 'he raised his fist and punched or shoved me in the chest and the shoulder area, and I fell back against the wall and the door of the office'. Seconds thereafter, he continued, the office door was opened and Agent S, followed by a police sergeant, came out and then he pointed to Barressi and told the police officer that Barressi had assaulted him. Agent B said that he was present when Barressi was questioned about his status with reference to the defendant's premises and he said Barressi stated 'that he booked the acts in there'. Agent B also testified that the defendant and her husband, Joseph Pintozzi, informed the agents that Barressi was neither a part owner nor employed on the licensed premises.

"Agent Sp's testimony corroborated that of the other agents as to what took place on the licensed premises on the evening in question.

"The agents were in agreement that the defendant and Joseph Pintozzi cooperated fully with them during the course of the investigation.

"Defendant testified that through Eugene Alberti, she booked the entertainment from the Garden State Entertainment Enterprises, and that Barressi was a representative of the aforesaid company and was there to supervise the presentation of the entertainment. She denied that he had any other authority whatsoever and stated that, if he purchased drinks for anyone, the price of the drinks was deducted from the company's bill.

"Joseph Pintozzi's testimony corroborated that given by defendant and, in addition thereto, he stated that Barressi, by his conduct, always tried to impress people 'that he owns the building. He's that way. He's that type of man'. Furthermore, Pintozzi said that after the incident, he immediately banned Barressi from coming into the licensed premises any time in the future.

"Eugene Alberti testified that he is president of the Garden State Entertainment Enterprises which furnished the entertainment on the night under consideration. Moreover, he said, that in January, 1961, Barressi became associated with the company and, on the night in question, was in attendance at the defendant's premises as a representative of the company to check everything pertaining to the entertainment to see that it was in proper order. He further testified that he came into the place on March 24th, arriving there at about 10:00 p.m., because when 'a name group like the Playmates' is presented, different club owners visit the establishment to hear the act and then make inquiries about hiring the group to entertain in their respective establishments.

"The question to be resolved here, insofar as Charge 1 is concerned, is whether the evidence presented by the Division's witnesses is adequate to establish that Barressi either held an undisclosed interest in the license or was employed by the defendant-licensee. His actions, in themselves, might rightfully lead an observer to conclude either status in the affirmative. However, when all the evidence is carefully examined, it tends to negate such conclusion. Barressi denied that he was connected in any manner

with the operation of the licensed premises, but stated that he was merely an employee or agent of the company which furnished the entertainment. If this were all, I would be very hesitant to accept such explanation. On the other hand, defendant, Joseph Pintozzi and Eugene Alberti testified that Barressi was employed by the company furnishing the talent and not by defendant. The circumstantial evidence presented by the agents on the Division's behalf would prevail if the testimony of all the witnesses produced by the defendant were disregarded. I have no reason to doubt the veracity of these witnesses. Defendant and Joseph Pintozzi have given a reasonable explanation for Barressi's presence in the premises at the time in question and their attitude toward the agents during the investigation is exemplary. Moreover, Barressi has been barred by defendant from coming into the defendant's establishment at any time in the future. Although Barressi's actions may have been suspicious, I am satisfied that he was neither a part-owner nor employee, nor in any manner whatsoever connected with the management of defendant's licensed premises. I am equally satisfied that neither defendant nor Joseph Pintozzi nor any other employee in the defendant's establishment was derelict in not preventing the sudden assault made by Barressi upon Agent B. Both defendant and her husband, Joseph Pintozzi, were in the office with the door closed leading to the barroom when the sudden incident arose and were being interrogated by Agent S at the time. They were in no position to, nor could they prevent such occurrence. Under the circumstances, and considering the evidence presented, I recommend that Charges 1 and 2 be dismissed.

"Defendant has no prior adjudicated record. The minimum penalty for Charge 3 (hostess activity) is twenty days (Re Tamburro, Bulletin 1342, Item 5) and for Charge 4 (employing unqualified person) an additional five days (Re Freud & Pittala, Bulletin 1142, Item 9), making a total of twenty-five days. In view of the fact that a plea of non vult was entered to both charges prior to the date of the hearing, defendant is entitled to a remission of five days (Re Wilcox, Bulletin 1252, Item 4). I recommend that an order be entered suspending defendant's license for a period of twenty days."

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

Having carefully considered the record herein, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 10th day of August, 1961,

ORDERED that Plenary Retail Consumption License C-27, issued by the Mayor and Council of the Borough of Lodi to Catherine Pintozzi, t/a Paper Doll Club, for premises on S.E. Corner Rt. 46 and Contant Avenue, Lodi, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m., Wednesday, August 16, 1961, and terminating at 3:00 a.m., Tuesday, September 5, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
Labeled - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Issie's Tavern, Inc.)
308-310 Market Street)
Newark 2, New Jersey)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-688, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)
-----)

ORDER

Carmen C. Rusignola, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On July 6, 1961, you possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises, alcoholic beverages in bottles which bore labels which did not truly describe their contents, viz.,

Two quart bottles labeled 'Seagram's Seven Crown American Blended Whiskey, 86 Proof' and

Two 4/5-quart bottles labeled 'J. & B. Blended Scotch Whisky, 86 Proof';

in violation of Rule 27 of State Regulation No. 20."

On July 6, 1961, an ABC agent tested defendant's open stock of liquors and seized a number of bottles for further tests by the Division's chemist. The chemist's analysis disclosed that the contents of two bottles of Seagram's Seven Crown American Blended Whiskey were high in solids and that the contents of two bottles of J. & B. Blended Scotch Whisky were high in solids and acids, when compared with genuine samples of the labeled brands.

Defendant has no prior adjudicated record. The attorney for the licensee has submitted a letter in which he states, by way of mitigation, that the licensee is usually not on the premises and perhaps an employee inadvertently committed this violation. The licensee cannot escape the consequences of the aforementioned acts of its agents and employees. Rule 33 of State Regulation No. 20; Re Ocean Avenue Tavern, Inc., Bulletin 1390, Item 3. I have carefully examined the contents of this letter and find nothing therein which would indicate the imposition of less than the usual penalty in these cases. I shall suspend the license for a period of twenty days, which is the minimum penalty indicated where four bottles are involved. Re Pilot's Lounge, Inc., Bulletin 1390, 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 August 1961,

ORDERED that Plenary Retail Consumption License C-688, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Issie's Tavern, Inc., for premises 308-310 Market Street, Newark, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m., Monday, August 21, 1961 and terminating at 2:00 a.m., Tuesday, September 5, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Al Melito, Inc.
t/a Park Villa
U.S. Rt. #1 at Roosevelt Park
Edison Township
PO Metuchen, N. J.,

)
)
) CONCLUSIONS

) AND

) ORDER

Holder of Plenary Retail Consumption License C-28 (for the 1960-61 and 1961-62 licensing years), issued by the Municipal Council of the Township of Edison.

Irving E. Kosky, Esq., Attorney for Defendant-licensee
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it possessed in and upon its licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On Friday, May 19, 1961, ABC agents gauged and tested defendant's open stock of assorted brands of liquor and seized a number of bottles for further tests by the Division's chemist. The chemist's report shows that the contents of thirteen of the bottles listed in the charge were high in solids, some high in acids, some low in solids, some had a proof shortage and all were light in color when compared with samples of the genuine products of the named brands.

At the time the inspection was made, Al Melito (president of the corporate licensee) admitted to the agents that he had been tampering with several brands of liquor for "about a week on weekends" because he had difficulty in purchasing some particular choice brands.

In a written statement submitted by defendant's attorney it is contended that the substitutions made by Melito and the approximate retail price differential resulting from the substitutions show the lack of a profit motive. Further, it is contended that, since the violation charged herein is an initial offense, an irreparable hardship will be suffered by defendant if the penalty imposed exceeds thirty days because the terms of defendant's chattel mortgage provide that, if the license "is revoked for any violation in excess of thirty (30) days, then the full amount of the principal due and owing on this mortgage, together with interest, shall become due and payable immediately. In the event that the mortgagor shall fail to carry on and conduct said business, consisting of a restaurant and bar for a continual period of thirty (30) days, then the mortgagee may demand full payment of the principal amount due on said mortgage together with interest."

Considering the reasons given by Melito which were expanded upon by defendant's attorney, it is apparent that Melito had little regard for his customers who patronize the establishment and are entitled to be served the brand of liquors they order and pay for.

I can see no extenuating circumstances in this matter which would impel me to impose less than the established minimum penalty in cases of this kind.

Defendant has no prior adjudicated record. I shall suspend its license for a period of forty-five days and remit five days for the plea entered herein, leaving a net suspension of forty days. Re Martino, Bulletin 1384, Item 2.

Accordingly, it is, on this 15th day of August 1961,

ORDERED that plenary retail consumption license C-28, issued by the Municipal Council of the Township of Edison to Al Melito, Inc., t/a Park Villa, for premises on U. S. Rt. #1 at Roosevelt Park, Edison Township, be and the same is hereby suspended for forty (40) days, commencing at 2 a.m. Wednesday, August 23, 1961, and terminating at 2 a.m. Monday, October 2, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

6. 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)

Charles McAlister & Matilda McAlister)
t/a Club Broadway Bar)
130-130 A Broadway)
Paterson, New Jersey,)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-208, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

Defendant-licensees, by Charles McAlister, partner
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they sold during prohibited hours alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

On the afternoon of Sunday, July 23, 1961, ABC agents entered defendants' premises where Charles McAlister was tending bar. At about 2 p.m. the bartender engaged in a conversation with a patron who was seated at the bar, accepted a sum of money from him and served a bottle of beer to him. While the patron was consuming the beer, the bartender took a paper bag from the refrigerator and placed the bag on the floor at the end of the bar. Shortly thereafter the patron left the premises with the bag which he picked up from the floor. The agents followed the patron and stopped him outside. An examination of the bag disclosed that it contained two six-packs of beer. The agents returned with the patron to the premises, where the bartender admitted that he had sold the beer for \$2.20.

Defendants have no prior adjudicated record. I shall suspend defendants' license for the minimum period of fifteen days. Re Royal Room, Inc., Bulletin 1388, Item 8. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 10th day of August 1961,

ORDERED that plenary retail consumption license C-208, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Charles McAlister & Matilda McAlister, t/a Club Broadway Bar, for premises 130-130 A Broadway, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3 a.m. Monday, August 21, 1961, and terminating at 3 a.m. Thursday, August 31, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN APPLICATION (AS TO CONVICTION OF A CRIME) - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
131 West Street Corp.
t/a Key Club
131 West Street
Newark, New Jersey,
Holder of Plenary Retail Consumption License C-840, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS
AND
ORDER

Maurer & Maurer, Esqs., by David Maurer, Esq., Attorneys for Defendant-licensee
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"In your application dated April 20, 1960, filed with the Newark Municipal Board of Alcoholic Beverage Control, upon which you obtained your 1960-61 plenary retail consumption license, you falsely stated 'No' in answer to Question 33, which asks: 'Have you or has any person mentioned in this application ever been convicted of any crime?', whereas in truth and fact your President, director and 25% stockholder, Walter C. Dawkins, mentioned in Questions 20, 21 and 22 of said application, had been convicted on September 20, 1941 in the City Court of Macon, in Bibb County, Georgia, of the crime of stabbing; said false statement being in violation of R.S. 33:1-25."

The file herein discloses that the application referred to in the charge contains the answer "No" to Question 33. The fingerprint returns of Walter C. Dawkins disclose that on September 20, 1941, he was sentenced to serve twelve months in a Public Works Camp in Georgia on a charge of stabbing. Subsequent investigation discloses that said sentence was imposed by a Judge of the City

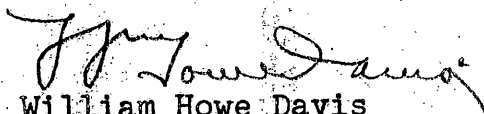
Court in Macon, Georgia, after Dawkins had pleaded guilty to an accusation of cutting a person on the cheek and ear with an instrument. The investigation further discloses that Dawkins was only seventeen years of age when the crime was committed and that he has no other criminal record.

In accordance with the ruling of Commissioner Burnett in Bulletin 149, Item 1, which has been followed since it was promulgated in 1936, I conclude that the crime of which Dawkins was convicted in 1941 does not involve moral turpitude as he was under 18 years of age and, hence, does not disqualify him from holding a license. Nevertheless, the crime should have been disclosed in the application in question and failure to do so constitutes a violation of R.S. 33:1-25.

Defendant has no prior record. This case is distinguished from cases similar to Re Nykun, Bulletin 1023, Item 6, where a suspension of twenty days was imposed for failure to disclose a crime involving moral turpitude, and it appeared that the conviction was later expunged from the record. Under all the circumstances of this case, I shall suspend defendant's license for fifteen days. Re Freddie's Tavern, Inc., Bulletin 917, Item 5; Re 279-10 Inc., Bulletin 1132, Item 3. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 8th day of August 1961,

ORDERED that plenary retail consumption license C-840, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to 131 West Street Corp., t/a Key Club, for premises 131 West Street, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, August 14, 1961, and terminating at 2 a.m. Thursday, August 24, 1961.


William Howe Davis
Director