

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
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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 1058

APRIL 20, 1955

1. COURT DECISIONS - BENEDETTI v. TRENTON AND DIVISION OF ALCOHOLIC BEVERAGE CONTROL - ORDER OF DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-131-54

JOHN PETER BENEDETTI, trading)
as Ace Tavern,)

Appellant,)

vs.)

THE BOARD OF COMMISSIONERS OF)
THE CITY OF TRENTON, DIVISION)
OF ALCOHOLIC BEVERAGE CONTROL)
OF THE STATE OF NEW JERSEY, and)
WM. HOWE DAVIS, Director,)

Respondents.)
- - - - -)

Argued, March 14, 1955; decided, April 5, 1955.

Before Judges Goldmann, Freund and Conford.

Mr. Charles Stanziale argued the cause for the appellant (Mr. Joseph J. Felcone, of counsel).

Mr. Louis Josephson argued the cause for the respondent The Board of Commissioners of the City of Trenton (Messrs. John Brieger and Louis Josephson, attorneys).

Mr. Samuel B. Helfand argued the cause for the respondent Division of Alcoholic Beverage Control of the State of New Jersey (Mr. Grover C. Richman, Jr., Attorney General, attorney).

The opinion of the Court was delivered by

FREUND, J.A.D.

John Peter Benedetti appeals from an order of the Division of Alcoholic Beverage Control affirming an order of the Board of Commissioners of the City of Trenton revoking his plenary retail distribution license for his tavern. The basis of this order was appellant's violation of Rules 4 and 5 of State Regulations No. 20 promulgated pursuant to N.J.S.A. 33:1-39, in that he permitted upon his licensed premises prostitutes and persons of ill repute, solicitation for sexual intercourse, and conducted the tavern as a nuisance in a manner offensive to common decency and morals.

Benedetti categorically denied the charges, asserting that if such activities took place upon his premises, they were without his knowledge or consent. The Board of Commissioners,

however, after hearing the testimony of witnesses, found the charges to be true. On appeal to the Division of Alcoholic Beverage Control, by stipulation the testimony taken before the local Board of Commissioners was accepted in lieu of the formal calling of witnesses. Benedetti's contention that the action of the local Board was illegal, erroneous, arbitrary and capricious was found to be without merit.

The appellant now argues that the revocation of his license was upon insufficient evidence, against the weight of the evidence, and unduly harsh and severe.

It would serve no useful purpose to detail the sordid testimony that was adduced at the hearing. It will suffice to set forth its general effect. Nine female patrons testified that over varying periods of time they were in the habit of going to the tavern, unescorted, where they met strange men, principally soldiers, who bought them drinks. Most of the girls testified that while in the licensed premises they made arrangements with the men to go elsewhere for illicit sexual intercourse and did in fact leave the premises and indulge in such acts, at hotels, motels, apartments and elsewhere. One girl testified that during a period of about a year and a half she met at this tavern and had sexual relations with about 200 men. The girls testified that when they were in the appellant's premises, he was usually there, tending bar.

There was abundant testimony from other witnesses to corroborate and substantiate the charges against the appellant. Among them was a police officer who testified that several of the girls were arrested for prostitution during the time they frequented the tavern.

On behalf of the appellant, testimony was given by a municipal A.B.C. investigator, a bartender, a waitress, and several patrons and neighborhood tradespeople, to the general effect that they saw nothing wrong going on in the premises. The neighborhood tradespeople visited the tavern principally during the day when their places of business were open. The municipal investigator testified that in her opinion the appellant tried to run a "clean place." Benedetti himself admitted that the girls had frequented his tavern, but said that he knew nothing of their solicitation. He testified that he made them behave themselves, and on occasion ejected some who did not.

The primary responsibility to enforce the law pertaining to retail licenses rests upon the municipality, R.S. 33:1-24, which has the power to conduct disciplinary proceedings to suspend or revoke retail licenses, R.S. 33:1-31.

The appellant argues that in the absence of direct proof that he knew of or consented to the charged activities upon the licensed premises, the evidence adduced at the hearing was insufficient to sustain the revocation of his license. Rules 4 and 5 impose the responsibility upon the licensee not to "allow, permit or suffer" upon the premises persons of the character and acts of the nature above described, and such responsibility adheres regardless of knowledge where there is a failure to prevent the prohibited conduct by those in the premises with his authority. Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup.Ct.1947).

In revoking the appellant's license, the local Board of Commissioners stated:

"We would have to be naive to believe that these women could have solicited on the premises without anyone connected with the management learning of it.

It is the opinion of this Board that persons connected with the Tavern knew what was going on but turned their backs to it."

We agree. The charges are amply sustained by substantial evidence that the unlawful acts in fact occurred and that Benedetti knew, or should have known, about them and allowed them to continue.

As to the sufficiency of the evidence, guilt beyond a reasonable doubt need not be proved, but only by a preponderance of the believable evidence. Kravis v. Hock, 137 N.J.L. 252 (Sup.Ct. 1948). The ultimate test in a review of a proceeding before an administrative tribunal is whether the factual findings are supported by substantial evidence, and where, as here, there is sufficient competent evidence to support the conclusions of the Director, they will not be disturbed on appeal by a de novo determination. Traymore of Atlantic City, Inc. v. Hock, 9 N.J.Super. 47 (App.Div.1950); In re Gutman, 21 N.J.Super. 579 (App.Div.1952); Mazza v. Cavicchia, 28 N.J.Super. 280, 289 (App.Div.1952), reversed on other grounds 15 N.J. 498 (1954).

The appellant argues that assuming he was negligent in not being aware of the prohibited activities, the order of revocation was unduly harsh, contending that in the cases of Greenbrier, Inc. v. Hock, 14 N.J.Super 39 (App.Div.1951); In re Larsen, 17 N.J. Super. 594 (App.Div.1952); Mazza v. Cavicchia, supra, the charges were more aggravated, but the penalty imposed was a suspension rather than revocation. The cases are clearly distinguishable. All involved first offenders and there were other extenuating circumstances which are not present in this case. Undoubtedly, the reason for the revocation was not only the appellant's guilt on the charges then under consideration, but also because he had been found guilty of two previous violations.

There is no common, inherent, natural or constitutional right to a liquor license; it is but a privilege. Eskridge v. Division of Alcoholic Beverage Control, 30 N.J.Super. 472 (App.Div. 1954). Mazza v. Cavicchia, supra. In the public interest, the right to prescribe the conditions under which intoxicants may be sold is practically limitless. Such power is vested in the Division or other issuing authority by R.S. 33:1-31, and the extent of any penalty imposed for violation of the law or regulations promulgated thereunder rests within the sound discretion of the adjudicating authority. Grant Lunch Corp. v. Driscoll, 129 N.J.L. 408 (Sup.Ct.1943); affirmed 130 N.J.L. 554 (E.& A. 1943), cert. denied 320 U.S. 801 (1944); In re 17 Club, Inc., 26 N.J.Super. 43 (App.Div.1953); Mitchell v. Cavicchia, 29 N.J.Super. 11 (App.Div.1953).

Under the circumstances here presented, there was no abuse of discretion in the revocation of the appellant's license. Clearly, he did "allow, permit and suffer" upon his licensed premises, over a protracted period of time, a condition which constituted a flagrant offense to fundamental decency and morality, justifying the imposition of the maximum penalty provided by law.

Affirmed.

- - - - -

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD -
AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 35 DAYS,
LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

ALDO TARSI)
t/a Shady Side Inn)
Springtown Road)
Alpha, New Jersey,)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption)
License C-5, issued by the Common)
Council of the Borough of Alpha.)

ORDER

Andrew Varga, Jr., Esq., Attorney 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 sold, served and delivered alcoholic beverages to minors and permitted the consumption of such beverages by said minors upon his licensed premises; in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that, at approximately 10:40 p.m., on Saturday, February 19, 1955, two ABC agents entered defendant's licensed premises to investigate a specific complaint that alcoholic beverages were being sold and served to minors. The agents observed four youths seated at a table, each with a bottle of beer in front of him and each drinking beer from a glass. After the waitress had served another round of beer to their table each of the minors poured beer from a bottle into a glass and started to consume it. The agents identified themselves to the minors and learned that one was 16 years of age, two were 18 years of age and one was 19 years of age, although the latter, at first, claimed to be 21 years of age. The three younger minors gave signed, sworn statements in which they admitted being served bottles of beer by the waitress who took, in payment therefor, money which they had placed on the table. Each admitted consuming the beer. The 16-year-old minor and one of the 18-year-old minors admitted being questioned as to their age; the others denied being questioned.

The waitress admitted serving beer to the four youths but claimed, orally, that she had asked their ages and that they had all replied "twenty-one." She also admitted that three of the youths looked like minors but claimed that the 16-year-old minor had his back to her. However, the agents report that said minor had been seated in the corner facing out toward the room when they saw the waitress serve the beer, as aforementioned.

Defendant has a prior record. His license was suspended by the local issuing authority for five days, effective April 19, 1954, for sale of alcoholic beverages to a minor. The minimum penalty for a first offense of sale of alcoholic beverages to minors (unaggravated by their tender age, the number of minors involved or other circumstances) is a suspension of the license for ten days. Re Szadkowski, Bulletin 1052, Item 14. This is defendant's second similar offense within a period of five years. Thus, following the

Division's long standing policy of doubling the penalty for a second similar violation within five years (Cf. Re Club Hi-De-Ho, Inc., Bulletin 1053, Item 4), the minimum penalty in this case, if otherwise unaggravated, would be a suspension of the license for twenty days. However, the instant case is aggravated by the tender age (16) of one of the minors and the number (4) of minors involved. An additional penalty of ten days will be added because of the 16-year-old minor (Re O'Brien & Cronin, Bulletin 1052, Item 6) and an additional five days will be added because four minors were involved (Re Hep's Tavern, Inc., Bulletin 962, Item 7). This makes a total suspension of thirty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 22nd day of March 1955,

ORDERED that Plenary Retail Consumption License C-5, issued by the Common Council of the Borough of Alpha to Aldo Tarsi, t/a Shady Side Inn, for premises at Springtown Road, Alpha, be and the same is hereby suspended for a period of thirty (30) days, commencing at 3 a.m., March 28, 1955, and terminating at 3 a.m., April 27, 1955.

WILLIAM HOWE DAVIS
Director

3. AUTOMATIC SUSPENSION - LICENSE PREVIOUSLY SUSPENDED BY
LOCAL ISSUING AUTHORITY - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by)

Frank Pileggi)

t/a The Fan)

401 - 35th Street)

Union City, New Jersey,)

On Petition

To Lift the Automatic Suspension of)

Plenary Retail Consumption License)

C-44, issued by the Board of Commis-)

sioners of the City of Union City.)

O R D E R

Samuel Moskowitz, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

It appears from a verified petition filed herein that on February 25, 1955, petitioner was convicted in the Superior Court of New Jersey, Hudson County Law Division, of the sale of alcoholic beverages to a minor, in violation of R.S. 33:1-77, as a result of which he was sentenced to pay a fine of \$100 and to pay the cost of prosecution. Said conviction resulted in the automatic suspension for the balance of its term of the license held by petitioner. R.S. 33:1-31.1. Petitioner's license certificate was picked up by ABC agents at 1:30 p.m. March 17, 1955, and no alcoholic beverage activity has been conducted under said license since that time.

It further appears from the records of this Division that, in disciplinary proceedings instituted by the Board of Commissioners of the City of Union City against said petitioner, the Board found

petitioner guilty on a charge of selling alcoholic beverages to a minor and suspended his license for a period of forty days commencing October 25, 1954, and ending December 4, 1954.

The conviction in the criminal proceedings and the charge in the disciplinary proceedings were based upon the same facts. Since the suspension imposed by the Board of Commissioners in the disciplinary proceedings appears to be adequate, the petitioner's request for the lifting of the automatic suspension herein will be granted.

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

ORDERED that the automatic suspension of License C-44, now held by Frank Pileggi, t/a The Fan, for premises 401 - 35th Street, Union City, be and the same is hereby lifted, and said license is restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS

Director

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

In the Matter of Disciplinary
Proceedings against

EARNEGAT POWER & COLD STORAGE CO., INC.
N/E Corner State Highway Rte. 9-4 & Crabbe Rd.)
South Toms River, New Jersey,

CONCLUSIONS

AND

Helder of Plenary Retail Distribution License
D-1, issued by the Mayor and Borough Council)
of the Borough of South Toms River.

ORDER

-----)

Hiering & Grasso, Esqs.; Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold, served and delivered alcoholic beverages to a minor upon its licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that at 8:30 p.m. on February 19, 1955, a minor, 20 years of age, entered defendant's licensed premises and purchased 12 - 12 ounce cans of beer from an employee of defendant. Three minor companions remained in the car parked outside defendant's licensed premises.

In attempted mitigation of penalty to be imposed for the instant violation, defendant contends that the minor displayed to the employee who made the sale a draft registration card which disclosed that he was born in 1932. The minor admits that the defendant's employee requested some identification and states that in response thereto he showed him a certificate of service in the navy which certificate did not bear his age. In any event defendant has 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).

Defendant has no prior adjudicated record. Inasmuch as the minor involved was 20 years of age at the time and that ten cans of beer were recovered by the police authorities when the minor and his companions were taken into custody by them, I shall suspend defendant's license for ten days, the minimum penalty in a case of this character. Re Fanok, Bulletin 1033, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

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

ORDERED that Plenary Retail Distribution License D-1, issued by the Mayor and Borough Council of the Borough of South Toms River to Barnegat Power & Cold Storage Co., Inc., for premises at N/E Corner State Highway Rte. 9-4 & Crabbe Rd., South Toms River, NJ and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. March 28, 1955, and terminating at 9:00 a.m. April 2, 1955.

WILLIAM HOWE DAVIS
Director

5. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

MICHALINA NARWID-OLSON
324 Cross Street
Harrison, New Jersey,

Holder of Plenary Retail Consumption
License C-26, issued by the Town
Council of the Town of Harrison.

CONCLUSIONS

AND

ORDER

Michalina Narwid-Olson, Defendant-licensee, Pro Se.
William F. Wood, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that she possessed on her licensed premises alcoholic beverages in a bottle bearing a label which did not truly describe the contents thereof, in violation of Rule 27 of State Regulations No. 20.

The file herein discloses that on March 1, 1955 an ABC agent entered defendant's licensed premises to make a routine inspection of the open stock therein. After identifying himself to the licensee, he saw her take from the back bar a bottle which she put in a pail and carried to the kitchen. The agent followed, seized the open bottle labeled "Schenley Reserve Blended Whiskey", made a spot check and found the contents to be low in proof and off in color. The agent obtained a signed sworn statement from the licensee in which she admitted that she had filled a half-empty

bottle of the labeled brand with Carstairs Whiskey and stated that she intended to put herbs in it and give the concoction to a sick friend. The seized item was submitted to the Division's chemist whose report shows it to be "too high in solids" and "too low in acids" when compared with samples of the genuine Schenley product. The agent, during his inspection, gauged twenty-six other bottles of open stock and found them to be apparently as labeled.

Defendant has no prior adjudicated record. I shall suspend her license for the minimum period of fifteen days. Re Petrach, Bulletin 1050, Item 11. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

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

ORDERED that Plenary Retail Consumption License C-26, issued by the Town Council of the Town of Harrison to Michalina Marwid-Olson, for premises 324 Cross Street, Harrison, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m., March 28, 1955, and terminating at 2 a.m., April 7, 1955.

WILLIAM HOWE DAVIS
Director

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

In the Matter of Disciplinary Proceedings)
against)

THOMAS SOERENSEN
t/a Greenwood Inn
Old Freehold Road
Dover Township
PO Toms River, New Jersey,

) CONCLUSIONS

) AND

) ORDER

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

-----)
Novins and Novins; Esqs., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

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

The file herein discloses that an ABC agent obtained signed sworn statements from Gerald --- (age 18) and William --- (age 19) relating that on March 6, 1955, they visited defendant's licensed premises wherein they each consumed two glasses of beer, served to them by a bartender called "Tom" who made no inquiry as to their ages. William later accompanied the agent to defendant's tavern which he pointed out as the place where he and Gerald had

been served, and therein identified the licensee as the person who had served them.

Defendant has no prior adjudicated record. I shall suspend his license for a period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Red Robin Cafe & Restaurant, Bulletin 1048, Item 9.

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

ORDERED that Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Dover to Thomas Soerensen, t/a Greenwood Inn, for premises on Old Freehold Road, Dover Township, be and the same is hereby suspended for five (5) days, commencing at 2 a.m., March 28, 1955, and terminating at 2 a.m., April 2, 1955.

WILLIAM HOWE DAVIS
Director

7. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

TISHLER-BIRN, INC. (A Corp.)
t/a Sally's Bar & Grill
108 Easton Avenue
New Brunswick, New Jersey,

CONCLUSIONS

AND

Holder of Plenary Retail Consumption
License C-57, issued by the Board of
Commissioners of the City of New Brunswick.)

ORDER

Tishler-Birn, Inc., Defendant-Licensee, by Charles M. Birn,
Vice-President.
Edward F. Ambrose, Esq., Appearing For Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold, served and delivered alcoholic beverages to three 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 at about 9:30 p.m., March 10, 1955, ABC agents visited defendant's licensed premises wherein they observed an apparent minor consuming beer at the bar. At 11:15 p.m. a group of fifteen patrons arrived, two of whom were obviously under age. Each of the two minors was served a glass of beer which he carried to a rear sitting room. At 11:45 p.m. the agents entered the rear room and there saw both minors consuming beer at a table therein. After identifying themselves, the agents interrogated the two youths who, in signed sworn statements, stated that they are John R. --- (age 19) and Andrew --- (age 20) and that each had been served three glasses of beer by the bartender

who did not question them as to their ages. One of the agents then questioned the apparent minor at the bar, who said he is John E. --- (age 20), a member of the U. S. Armed Forces, and that he had been served two glasses of beer and was not required to produce proof of his age. The trio identified Hiram Dugan as the bartender who had served them.

Defendant has no prior adjudicated record. Because three minors over the age of eighteen years were involved, I shall suspend defendant's license for a period of fifteen days. Re Rogers, Inc., Bulletin 1002, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

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

ORDERED that Plenary Retail Consumption License C-57, issued by the Board of Commissioners of the City of New Brunswick to Tishler-Birn, Inc. (A Corp.), t/a Sally's Bar & Grill, for premises 108 Easton Avenue, New Brunswick, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m., March 26, 1955, and terminating at 2 a.m., April 7, 1955.

WILLIAM HOWE DAVIS
Director

6. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

ELIZABETH CUROE,)
T/a Gay's,)
307 Bergen Blvd.,)
Fairview, New Jersey.)

CONCLUSIONS

Holder of Plenary Retail Consump-)
tion License C-9, issued by the)
Borough Council of the Borough of)
Fairview.)

AND

ORDER

-----)
Elizabeth Curoe, Defendant-licensee, Pro se.
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 three minors; and permitted the consumption of such beverages by said minors, in and upon her licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that at 12:30 a.m. Sunday, March 6, 1955, ABC agents who were in defendant's licensed premises observed the bartenders therein serve a bottle of beer to each of three apparent minors who just arrived, without inquiring as to their ages. When the trio had consumed some of

the beverage, the agents identified themselves, seized the unfinished beer and, later, obtained signed sworn statements from Henry --- (age 19), Richard --- (age 20), both of the U. S. Armed Forces, and Harold --- (age 20), verifying the above facts.

Defendant has no prior adjudicated record. Because three minors over the age of eighteen years were involved, I shall suspend defendant's license for a period of fifteen days. Re Rogers, Inc., Bulletin 1002; Item 5. Five days will be remitted for the plea entered hercin, leaving a net suspension of ten days.

Accordingly, it is, on this 22nd day of March, 1955,

ORDERED that plenary retail consumption license C-9, issued by the Borough Council of the Borough of Fairview to Elizabeth Curoc, t/a Gay's, for premises 307 Bergen Blvd., Fairview, be and the same is hereby suspended for ten (10) days, commencing at 3 a.m. March 28, 1955, and terminating at 3 a.m. April 7, 1955.

WILLIAM HOWE DAVIS
Director

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

In the Matter of Disciplinary)	
Proceedings against)	
)	
FANNY MARRONE)	CONCLUSIONS
T/a CLUB MELROSE)	
208 Straight Street)	
Paterson, N. J.,)	AND
)	
Holder of Plenary Retail Consumption)	ORDER
License C-298, issued by the Board of)	
Alcoholic Beverage Control for the)	
City of Paterson.)	
-----)	

George R. Sommer, Esq., Attorney 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 she sold, served and delivered alcoholic beverages to minors and permitted the consumption of such beverages by said minors upon her licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that, at approximately 8:30 P.M., on Sunday, February 13, 1955, Douglas --- and Clarence ---, both 19 years of age, entered defendant's licensed premises with an adult male companion. A bartender served each of them a bottle of beer without questioning any of them as to age. Douglas paid for the beer served to him and Clarence and drank all of his beer. Clarence consumed only one glass of his beer and all three left hurriedly because of an incident involving Clarence and another male patron.

Defendant has no prior adjudicated record. I shall suspend her license for ten days, the minimum penalty for an unaggravated first offense of this kind involving two minors 19 years of age. Re Carpel, Bulletin 1003; Item 10. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 22nd day of March 1955,

ORDERED that Plenary Retail Consumption License C-298, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Fanny Marrone, t/a Club Melrose, 208 Straight Street, Paterson, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. March 28, 1955, and terminating at 3:00 a.m. April 2, 1955.

WILLIAM HOWE DAVIS
Director

10. DISCIPLINARY PROCEEDINGS - PERMITTING ACT OF VIOLENCE AND DISTURBANCE ON LICENSED PREMISES - PRIOR RECORD - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary
Proceedings against

MARIE PONE & DOMINIC J. PONE
T/a HUBBY'S INN
Kasonbey's Lane & Spotswood Road
Monroe Township
PO Jamesburg, New Jersey,

CONCLUSIONS

AND

ORDER

Holders of Plenary Retail Consumption
License C-7, issued by the Township
Committee of the Township of Monroe
(Middlesex County).

Marie Pone & Dominic J. Pone, Defendant-Licensees, Pro Se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charge:

"On January 1, 1955, you allowed, permitted and suffered an act of violence and a disturbance in and upon your licensed premises; in violation of Rule 5 of State Regulations No. 20."

The file herein discloses that about 12:05 a.m. on January 1, 1955, two customers became involved in a fist fight in the rear dance hall located on defendant's licensed premises. Within a short period of time other patrons joined in the affray. Dominic J. Pone (hereinafter referred to as Dominic), one of the defendant licensees, came into the room where the brawl was in progress brandishing a loaded revolver. He fired two shots, one of which struck one of the youths originally involved in the fight and the other shot struck the brother of the other original participant.

Defendants appeared personally before me and in mitigation of the offense charged, Dominic stated that the crowd became out of control and that he not only feared that his establishment and fixtures would be destroyed but that his own life was endangered. He further stated that he phoned the police immediately and then ran for his gun, hoping to frighten the participants in the brawl if he fired some warning shots into the floor; that two shots were fired by him and apparently ricocheted, striking two patrons and wounding them, but not seriously.

It is apparent that Dominic became completely bewildered and failed to act in the manner in which a prudent man would or should have acted under similar circumstances. Such actions on the part of a liquor licensee were entirely unwarranted. If this were the first violation committed by Dominic I might have a tendency to extend leniency in the matter. However, it is apparent from Dominic's record as a licensee that he has a penchant for violating the Alcoholic Beverage Law. Effective April 2, 1953, the license held by Dominic, in his individual name, for premises in another municipality was suspended for the balance of its term (90 days) after he had pleaded non vult to charges alleging that he permitted the following violations on his licensed premises: Foul, filthy and indecent language, gambling, lottery, female bartenders to serve alcoholic beverages and that his place of business was conducted in such a manner as to become a nuisance, in that he made offers to procure females for patrons for the purpose of prostitution, introduced females to patrons for such purposes and otherwise conducted his licensed place of business in such a way as to be offensive to common decency and public morals. Re Pone, Bulletin 963, Item 2. Again, a license held by Marie Pone, wife of Dominic, was suspended for the balance of its term, effective October 5, 1954, when the facts at the hearing of the proceeding disclosed that Dominic had an undisclosed interest in the present licensed business when the application for transfer of said license was filed. Re Pone, Bulletin 1034, Item 5. The aforesaid suspension was modified to a twenty-day suspension when the unlawful condition was corrected by transfer of the license to Marie Pone & Dominic J. Pone, as partners. Re Pone, Bulletin 1038, Item 5.

The seriousness of the violation now under consideration, in addition to the poor record of Dominic as a licensee which has been outlined above, would ordinarily warrant a revocation of defendants' license. However, a revocation of defendants' license would not only penalize Dominic, but also the other licensee, Marie Pone (his wife), who was an innocent party with reference to the charge herein. Therefore, I shall suspend the license for ninety days. It is my considered opinion that Dominic would fare better in another type of business and the licensees would be well advised to seek a bona fide purchaser for their licensed business.

Accordingly, it is, on this 22nd day of March 1955,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Monroe (Middlesex County) to Marie Pone & Dominic J. Pone, t/a Hubby's Inn, Kasonbey's Lane & Spotswood Road, Monroe Township, (Middlesex County), be and the same is hereby suspended for a period of ninety (90) days; commencing at 3 a.m., March 28, 1955, and terminating at 3 a.m., June 26, 1955.

WILLIAM HOWE DAVIS
Director

11. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD -
 LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
 Proceedings against

JOSEPH F. EGGIMANN
 T/a PETE EGGIMANN'S TAVERN
 1701 Route 71
 Wall Township
 PO Belmar, New Jersey,

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consump-
 tion License C-3, issued by the
 Township Committee of Wall Township.

Vincent P. Keuper, 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 he sold, served and delivered alcoholic beverages to a minor,
 in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that ABC agents obtained
 signed sworn statements from Paul --- (age 18) and two of his
 companions (age 16 and 17) relating that on Friday evening,
 February 4, 1955, at about 9:45 p.m., they and another seventeen-
 year old minor drove to defendant's licensed premises, in front of
 which they parked their car; that Paul and the last minor re-
 ferred to entered the tavern wherein Paul purchased two six-pack-
 cartons of bottled beer from the bartender who made no inquiry as
 to their ages; that later they drove to a nearby community and
 were consuming the beverage when apprehended by the police. Paul
 and two of the other minors accompanied the agents to defendant's
 tavern, which they pointed out as the place where the beer was
 obtained, and Paul identified therein the bartender, who stated
 that he made the service without requiring written proof of age
 but merely upon verbal representation by the youth that he was
 twenty-one years of age.

Defendant has a prior adjudicated record. Effective
 May 10, 1954, his license was suspended for five days by the State
 Director for possessing indecent statuettes, drawings and cartoons
 on his premises. Re Eggimann, Bulletin 1016, Item 9. Since the
 prior violation occurred within a five-year period, it will be
 considered in fixing the penalty herein. Re Tony's White Tavern,
Inc., Bulletin 1035, Item 4. The minimum period of suspension for
 the instant violation is ten days. Re Carabelli, Bulletin 1039,
Item 7. I shall suspend defendant's license for fifteen days, and
 remit five days for the plea entered herein, leaving a net sus-
 pension of ten days.

Accordingly, it is, on this 22nd day of March 1955,

ORDERED that plenary retail consumption license C-3,
 issued by the Township Committee of Wall Township to Joseph F.
 Eggimann, t/a Pete Eggimann's Tavern, for premises 1701 Route 71,
 Wall Township, be and the same is hereby suspended for ten (10)
 days, commencing at 2:00 a.m. March 28, 1955, and terminating at
 2:00 a.m. April 7, 1955.

WILLIAM HOWE DAVIS
 Director

12. ELIGIBILITY - COMMERCIALIZED GAMBLING - CRIME FOUND NOT
TO INVOLVE MORAL TURPITUDE UNDER CIRCUMSTANCES OF CASE.

April 1, 1955.

Re: Eligibility No. 664

Applicant seeks a determination as to whether he is eligible for employment by the holder of a liquor license in New Jersey because of his conviction of crime. Applicant was arrested in October 1954 and charged with bookmaking, in violation of R.S. 2A:112-3. He was indicted and, upon his plea of non vult thereto, he was sentenced on February 4, 1955 to pay a fine of \$1,000.

At the hearing held to elicit facts underlying the conviction, applicant, who is 54 years of age, testified that until his conviction he was regularly employed as a night bartender; that occasionally he would place a bet on horses for himself; that on two occasions he placed a bet for an old friend; that while on his way to a store to phone in his friend's bet he was apprehended; and that a betting slip and \$16 were taken from his person by detectives. He denied that he was a bookmaker or that he had ever accepted any bets on the licensed premises where he was employed. He stated that he pleaded non vult to the charge upon advice of counsel and that he disclosed to an Assistant Prosecutor the name of the person with whom he placed the bets.

The crime of bookmaking may or may not involve moral turpitude, depending on the circumstances. Re Case No. 651, Bulletin 1020, Item 9. Where one is a principal or a "lieutenant" in commercialized gambling, particularly where such gambling is conducted on a large scale, it has been ruled that the crime involves moral turpitude. Re Case No. 635, Bulletin 946, Item 10; Re Case No. 641, Bulletin 953, Item 5. In the instant case it appears that applicant's participation in bookmaking was neither as a principal nor as a "lieutenant." Under the circumstances, I conclude that the crime of which he was convicted did not involve moral turpitude. Cf. Re Case No. 557, Bulletin 1035, Item 10.

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

Joseph A. Burns
Attorney.

APPROVED:

WILLIAM HOWE DAVIS
Director.

13. STATE LICENSES - NEW APPLICATION FILED.

William Robert Shaiman
t/a Beverages Unlimited
56 West Main Street
Rahway, New Jersey

Application filed April 19, 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, New Jersey.

WILLIAM HOWE DAVIS
Director

14. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - AGGRAVATED
CIRCUMSTANCES - LICENSE SUSPENDED FOR 35 DAYS, LESS 5
FOR PLEA.

In the Matter of Disciplinary
Proceedings against

UNION CASINO, INC.
526 Front Street
Union Beach, New Jersey,

Holder of Plenary Retail Consumption
License C-3, issued by the Mayor and
Council of the Borough of Union Beach.

CONCLUSIONS

AND

ORDER

Union Casino, Inc., Defendant-Licensee, by Morris Poland, President.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

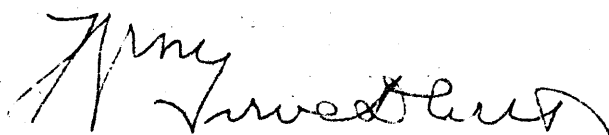
Defendant has pleaded nolo contendere to a charge alleging that it sold, served and delivered alcoholic beverages to minors and permitted the consumption of such beverages by said minors in and upon its licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that ABC agents obtained signed sworn statements from Dorothy --- (age 15) and Doris --- (age 16), relating that they entered defendant's licensed premises with two adult males at about 11:15 p.m., December 31, 1954, and remained until about 12:30 a.m., January 1, 1955, during which time each consumed either three or four rounds of whiskey and soda, served by a waitress who made no inquiry as to their ages. On January 12, 1955, the aforesaid minors accompanied the agents to the licensed premises which they identified as the tavern wherein they were served and on January 14, 1955 they identified Catherine Fagan, at her place of regular employment, as the person who served them.

Defendant has no prior adjudicated record. However, there can be no excuse for a direct sale of whiskey to minors who are 15 or 16 years of age. In view of the youthfulness of the girls involved, I shall suspend defendant's license for a period of thirty-five days. Cf. Re Barletta, Bulletin 794, Item 3; Re Celardo, Bulletin 985, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 1st day of April 1955,

ORDERED that Plenary Retail Consumption License C-3, issued by the Mayor and Council of the Borough of Union Beach to Union Casino, Inc., 526 Front Street, Union Beach, be and the same is hereby suspended for a period of thirty (30) days, commencing at 2 a.m., April 6, 1955, and terminating at 2 a.m., May 6, 1955.



William Howe Davis
Director.